

**SOCIAL SECURITY DISABILITY FRAUD:  
CASE STUDIES IN FEDERAL EMPLOYEES AND  
COMMERCIAL DRIVER'S LICENSES**

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**HEARING**

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON

HOMELAND SECURITY AND

GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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**SOCIAL SECURITY DISABILITY FRAUD:  
CASE STUDIES IN FEDERAL EMPLOYEES AND  
COMMERCIAL DRIVER'S LICENSES**

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**WEDNESDAY, AUGUST 4, 2010**

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
OF THE COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

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The Subcommittee met, pursuant to notice, at 2:32 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Carl Levin, Chairman of the Subcommittee, presiding.

Present: Senators Levin, Carper, and Coburn.

Staff Present: Elise J. Bean, Staff Director and Chief Counsel; Mary D. Robertson, Chief Clerk; Laura Stuber, Counsel; Nina Horowitz, Detailee (GAO); Christopher Barkley, Staff Director to the Minority; David Cole, Professional Staff Member to the Minority; Andrew Dockham, Counsel to the Minority; and Lindsay Harrison, Fellow; Michael Wolf, Law Clerk; Joshua Nimmo, Intern; Jeffrey Goldenhersh, Intern; Peter Tyler (Sen. Carper); Russell Sloan and Shannon Lovejoy (Sen. Pryor); .

**OPENING STATEMENT OF SENATOR LEVIN**

Senator LEVIN. Good afternoon, everybody. The Social Security Administration (SSA) manages two programs that together provide a critical safety net for millions of Americans with disabilities. The first is the Social Security Disability Insurance (SSDI) program, which provides benefits to disabled individuals who can no longer work. The second is the Supplemental Security Income (SSI) program, a portion of which provides support to disabled persons and their families based upon financial need. In 2009, these two programs provided disabled Americans with financial benefits totaling about \$160 billion.

One hundred sixty billion dollars is a big number even by Washington standards, and the purpose of today's hearing, which was initiated at the request of Senator Coburn, is to strengthen stewardship of our disability programs to ensure that the benefits are going to those who really need and are entitled to them, and that precious dollars are not spent unwisely, erroneously, or wrongfully in these important programs.

(1)

The Social Security Administration has long acknowledged that its disability programs are not infallible. Sometimes the programs overpay the benefits owed; sometimes they underpay. Overall, the Social Security Administration has overpaid, and the total amount of uncollected overpayments has grown from about \$7.6 billion by the end of 2004 to \$10.7 billion by the end of 2008. And while the overpayment rate in the Disability Insurance program has been quite low, about 1 percent in 2008, the overpayment rate in the Supplemental Security Income program has been far higher—10 percent, approximately. In 2009, the SSI program reduced its overpayment rate to 8 percent. That was a reduction from the prior year, but that is still, obviously, way too high.

To help bring down that overpayment rate, today's hearing focuses on a Government Accountability Office report evaluating disability payments made to persons who work. While most disability recipients are unable to work, the government does allow disabled individuals to undertake a 9-month trial work period, without losing their benefits, to see if they can manage a job. When a disability recipient takes a job, they are required to notify the Social Security Administration about their employment status and whether they are earning in excess of program limits.

The GAO report focuses on the extent to which disability recipients may be abusing that work program. To do so, the GAO conducted two data matches. First, the GAO matched a database of Social Security disability recipients against Federal payroll databases covering about 4.5 million persons who worked for government agencies for varying periods of time from October 2006 to December 2008. Of those 4.5 million Federal employees, the GAO identified about 24,500 who received disability payments while also earning Federal paychecks. Since disabled persons are encouraged to work, and most of those 24,500 workers were paid less than the disability program limit of \$1,000 per month, many may have been in compliance with the program rules. However, 1,500 of those Federal employees were paid more than the program limit of about \$1,000 per month, which means that they may have been improperly receiving disability payments. While 1,500 out of 4.5 million represents a small percentage—about 0.03 of 1 percent of the total—those 1,500 employees received disability benefits totaling \$1.7 million per month.

The second match that GAO performed compared the disability rolls to a database of 600,000 persons holding a commercial driver's license, as well as another database, and identified 62,000 individuals who received their commercial driver's license after their disability start date. That data match, like the Federal employee match, raises questions about whether those workers may be improperly receiving disability payments worth millions of dollars.

The GAO used the data matches to select 20 individuals for additional analysis, 18 of whom were Federal employees and 2 of whom held commercial driver's licenses. The GAO concluded that all 20 were improperly receiving disability payments, finding that in 5 cases fraud was involved on the part of the individual, 11 involved potential fraud, and 4 did not involve fraud but administrative errors on the part of the Social Security Administration. Those 20 cases were not randomly selected; the GAO picked them because

they had facts suggesting fraud. Those 20 cases illustrate some of the abuses that are occurring and that need to be stopped

The fraud cases involved individuals who received disability payments, were later able to land a job, and then failed to tell the Social Security Administration about their employment. The administrative error cases involved workers who told the Social Security Administration to stop their disability payments or where the Social Security Administration determined that the payments should stop, but the payments kept arriving anyway. In one case, the GAO reported that an individual told the agency to stop making payments when he first landed a job and again 2 years later, but kept receiving funds. The GAO wrote: "[A]fter 2 years of full-time work, [the individual] again contacted [the Social Security Administration] and implored the agency to stop paying him because he knew something was not right and that he would have to return the money." That person must now repay the \$12,000 erroneously sent to him.

More can and must be done to stop improper disability payments to workers. As a first step, the Social Security Administration should investigate the 1,500 Federal employees and 62,000 commercial driver's license holders identified by the GAO. Resolving those cases alone could save millions of dollars in overpayments.

Second, the Social Security Administration needs to set up additional data matches to identify improper payments going to workers. Right now, the Social Security Administration undertakes a data match three times a year comparing its disability rolls to wage data compiled by the IRS from W-2 forms submitted with the prior year's tax returns. While useful, that approach provides the Social Security Administration with wage data that is 12 to 18 months out of date. The Social Security Administration should supplement this approach by performing regular data matches with more timely Federal payroll data, which is compiled every 2 to 4 weeks. The Social Security Administration should also investigate other wage databases that could be used to root out overpayments to employed individuals, especially in the SSI program.

Third, the Social Security Administration needs to strengthen its internal controls to halt payments that a disability recipient says should stop.

Now, Congress also has a role in stopping the overpayments. The Social Security Administration currently uses two mechanisms to police disability payments: Continuing Disability Reviews (CDRs) in the Disability Insurance program, and Supplemental Security Income redeterminations. Those are SSI redeterminations. Both evaluate whether payments should be discontinued because a person is no longer disabled. Studies show that CDRs save \$10 for each dollar spent while the SSI redeterminations save \$8 for each dollar spent.

Now, despite these cost savings, until recently there has been limited funding for these reviews. According to the SSA data, 10 years ago, in 2000, it spent about \$600 million on CDRs. By 2007, the funding had dropped to less than half to about \$300 million. By 2009, funding was back up to \$400 million; still, that is a third less than was available for enforcement and policing less than 10 years ago. Similarly, funding for SSI redeterminations dropped to

less than half from the year 2000 to the year 2007 and has only slowly regained ground since then.

Now, the current Administration has proposed increasing funding for CDRs and redeterminations in the fiscal year 2011 budget, which I hope Congress will support. We need to invest in oversight and enforcement to stop the abuses. There is little point in criticizing SSA for failing to reduce billions of dollars in overpayments if we deny them the enforcement funds needed to do just that.

Finally, I would be remiss not to mention one other longstanding disability issue that has plagued my home State of Michigan as well as other States, and that is the huge backlog in processing applicants who were denied benefits. Some individuals now wait as long as 3 years for a complete review of their disability applications, undergoing enormous financial pressures in the meantime. While this backlog is down from its height, hundreds of thousands of people are still caught up in the system, most waiting for appeals hearings. The Social Security Administration has a plan to eliminate this backlog by 2013, but it requires Congress to approve the Administration's funding request for that purpose as well.

Federal disability payments provide an essential safety net to millions of disabled Americans. Application backlogs deny critically needed benefits while improper payments reduce the funds available to those who truly need them. The Social Security Administration needs to strengthen its internal controls to address both problems.

Senator LEVIN. I commend Dr. Coburn for his leadership on this issue, and I now turn to him for his opening remarks.

#### **OPENING STATEMENT OF SENATOR COBURN**

Senator COBURN. Mr. Chairman, thank you for allowing me to hold this hearing. I also want to thank the witnesses that will testify today. I have a statement for the record, and I will just make a few points that I think are important for us to look at.

I also would say that I agree with everything that you just said, Chairman Levin. The greatest responsibility does not lie at the Social Security Administration for the problems that we see. They lie right here with Congress. First, there has been a failure to do oversight, to direct and see what the problems are. There has also been a failure to effectively fund the Social Security Administration to make sure they have the assets, the systems, and the rules within the law to make sure that we support and help those who need us, but do not have a system that can be gamed.

I think this is a phenomenal number, Mr. Chairman—that 1 in 20 Americans in this country are on a disability program. That does not include veterans. It is unbelievable that 1 in 20 Americans are truly disabled under the Social Security Act. And if you read the definitions in the Act, you will be astounded because one of the requirements is that you cannot perform any job that exists in the U.S. economy.

So this is not Social Security's problem. This is Congress' problem because we created a program that has been difficult, if not impossible, for them in many ways to manage effectively.

I will not repeat what the Chairman has said. Although I am disappointed with the Social Securities statement that overpayments



are unavoidable. I do not think overpayments are unavoidable in the Federal Government. I think if that is our attitude, that overpayments are unavoidable, we will never solve, never refine, and never make sure the programs that we have are working.

I want to commend the GAO for the work they have done. I have never found an area where they were not thorough and exemplary in how they carried out their investigations. I do want to make sure that we find out what we need to know as we go through these hearings and studies on these disability programs so that we can actually make the changes both in the law and in oversight to help Social Security. The SSA disability programs must be the tool that not only supplies this benefit for the rest of the disabled Americans, but also do so in a way that does not throw billions of dollars away every year through fraudulent schemes or inappropriate bureaucracies that delay the time at which we recognize when programs should be ceased for individuals.

I would say, Mr. Chairman, I think the reason we find this study—and you mentioned it—is because we have failed to do our job, and had congressional oversight been effective and frequent, I do not think we would have some of the findings we have today.

With that, I would like unanimous consent to introduce my opening statement to the record, and I yield back.

Senator LEVIN. Thank you very much, Dr. Coburn. Of course, the full statement will be made part of the record.

Senator LEVIN. Senator Carper has an opening statement.

#### **OPENING STATEMENT OF SENATOR CARPER**

Senator CARPER. Thanks, Mr. Chairman. It is good to be here with you and Dr. Coburn. Welcome to Mr. Kutz and others who are coming to testify today.

Overpayment and fraud within the Federal Government's disability benefits program is an important topic to me, and I know to my colleagues to my right, and deserves the attention not just of this Subcommittee, but it deserves the attention of Congress. And the idea, the notion of overpayments is getting a lot of attention, not just from this Subcommittee, not just from the Congress, but from the Administration, and that is good news.

I should note that in July we celebrated the 20th anniversary of the passage of the Americans With Disabilities Act. This anniversary reminded me of the many people in my State of Delaware and across the Nation who face the challenges of physical and mental disabilities every single day of their lives. Social Security disability programs are a critical lifeline for many who are facing huge challenges in their life, economic challenges among them.

As the witnesses' testimony is going to show us today, the Supplemental Security Income program and the Disability Insurance program, these are very large. In 2009, these two disability programs provided benefits totaling, I think, about \$160 billion. By April 2010, I think there were some 18 million people enrolled in the two programs, and nearly 1 in 20 Americans is receiving disability benefits of some kind. In fact, the number of individuals applying for disability apparently continues to grow. The Congressional Research Service estimates, I believe, the current backlog of pending applications waiting an initial determination by the Social

Security Administration exceeds 1 million people. And with programs of this size and complexity, oversight is, as we know, very important for ensuring that our taxpayer dollars are spent appropriately.

Unfortunately, the two disability payment programs managed by the Social Security Administration make very large amounts of overpayments. According to the Social Security Administration's latest report, improper payments total more than \$10 billion, and there is also fraud, I think, on top of that. And given the amount of money that is involved, we should not be surprised that there are significant overpayments. There are overpayments in almost every agency, and this is a lot of money, so the amount of the overpayments is not going to be insignificant.

But last year, I joined with Dr. Coburn, Senator McCain, and others to request GAO examine the two disability payment programs for improper payments. The resulting audit underscores the need for reforms and improvements to the oversight of these two Social Security disability programs.

I think we can draw many useful conclusions from the work that GAO has done and their recommendations. I also understand that the Social Security Administration's Inspector General has conducted audits and that their findings are along similar lines.

My staff in Delaware work with many constituents who receive benefits from the Social Security disability program. I am sure my colleagues in the other 49 States have staff who do the same thing for their constituents. The constituents report many problems that further illustrate the challenges of improper payments, including how the constituents must work with the Social Security Administration to straighten out errors.

Due to the complexity and the size of the two disability payment programs, I do not think that there is a single silver-bullet solution. I wish there were, but I do not think there is. There are likely many ideas that ought to be heard, debated, and some of them implemented. However, one idea I would like to explore is if Congress is being penny-wise and pound-foolish. I understand that the Inspector General noted that we could easily avoid billions in overpayments with a fairly small increase in oversight investment, and that is something I want us to drill down on today.

Again, we thank GAO for helping us with this, and the IG as well. Mr. Chairman and Dr. Coburn, I am happy to be your partner in this effort to do our job and to help make sure that we are not wasting money; by the same token, we are trying to make sure that the folks who have a disability are getting the help that they need.

Thanks very much.

Senator LEVIN. Thank you very much, Senator Carper, and also thank you both. You sponsored a bill called the Improper Payments Elimination and Recovery Act of 2010. The two of you took that initiative. I think it was recently signed into law, and that should be helpful, and you two have devoted a lot of time, and we and the taxpayers should appreciate that effort.

Senator CARPER. Thank you.

Senator LEVIN. Mr. Kutz, let me call you now as our first witness. Gregory Kutz is the Managing Director of Forensic Audits and Special Investigations at the Government Accountability Of-

fice. We appreciate your being with us. We also appreciate all the work that you do at the GAO. It is a critical part of our effort to have the essential oversight which we engage in.

Pursuant to Rule VI, as you know, all witnesses who testify before this Subcommittee are required to be sworn, so at this time I would ask you to please stand and raise your right hand. Do you swear that the testimony that you are about to give will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. KUTZ. I do.

Senator LEVIN. We will be using a timing system today. About 1 minute before the red light comes on, you will see the lights change from green to yellow, so you can conclude your remarks. Your written testimony will, of course, be printed in the record in its entirety, but we would ask that you try to limit your oral testimony to no more than 7 minutes.

Mr. Kutz.

**TESTIMONY OF GREGORY D. KUTZ,<sup>1</sup> MANAGING DIRECTOR,  
FORENSIC AUDITS AND SPECIAL INVESTIGATIONS, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. KUTZ. Mr. Chairman, Ranking Member Coburn, and Senator Carper, thank you for the opportunity to discuss Social Security disability programs. Today's testimony highlights the results of our investigation into Federal workers and commercial drivers improperly receiving disability benefits.

My testimony has two parts: First, I will discuss our macro analysis; and, second, I will discuss our specific 20 case studies.

First, our analysis identified 1,500 Federal workers that appeared to be improperly receiving disability benefits while working. For Disability Insurance, this included individuals that received more than 12 months of pay above the \$940-per-month threshold. For Supplemental Security Income, this included individuals receiving more than 2 months of pay above the \$1,400-per-month threshold. We also identified about 600,000 commercial drivers that were receiving full disability benefits.

To refine this analysis, we obtained current information from 12 States on 144,000 of these individuals; 62,000, or 43 percent, had their commercial licenses issues after Social Security determined that they were fully disabled.

So why should we be concerned about these 62,000 individuals? Because every 2 years, a licensed medical examiner must certify that these individuals are mentally and physically able to operate a commercial vehicle. Does this mean that all 62,000 cases are disability fraud? No. In fact, our past investigations found that workers with disqualifying disabilities were still driving. These individuals were driving without medical certifications or had forged the medical examiner's signature. In other words, they should have not been on the road. In contrast, those that passed the medical exam and are gainfully employed are likely fraudulently receiving disability pay.

<sup>1</sup>The prepared statement of Mr. Kutz appears in the Appendix on page 47.

Moving on to my second point, we validated 20 cases of fraudulent and improper payments from this overall analysis. As you mentioned, this was not a statistical sample and cannot be projected. Examples included a Transportation Security Administration (TSA) security screener that fraudulently received \$108,000. Social Security improperly paid her for 5 years, each year increasing the amount of disability pay by her reported Federal salary.

A home improvement contractor also fraudulently received payments. This individual told our investigator that he puts everything in his wife's name because he is on disability.

A legal assistant that worked for the Social Security Administration improperly received \$11,000. Social Security was not aware of this until we informed them.

And a Postal Service clerk fraudulently receiving \$19,000, told us that she did not report that she was working because she needed the money.

As you know, Social Security has downplayed the extent of the problems that I am discussing today. However, I want to mention that the numbers of potential fraudulent and improper cases here is significant, and the evidence for these 20 cases is irrefutable.

Here is the evidence we have that Social Security does not: Video of people working that Social Security should not have paid; admissions from some to Federal agents that they committed fraud; interviews with supervisors; biweekly payroll records from Federal agencies; Florida and Texas roadside inspections for a truck driver that Social Security says was not working; and a job description that says, "stooping, bending, and arduous physical labor." This was for a Veterans Administration (VA) worker on disability with a bad back.

As our report makes clear, nobody will ever know how many Federal workers and commercial drivers are improperly being paid. To conclude beyond the 20 cases, you need to have the video, the face-to-face interviews, and the payroll records, among other things.

In conclusion, I understand that SSA faces significant pressure to reduce the backlog and get needed payments to millions of Americans with disabilities. However, with our Nation's fiscal troubles, workers that are not entitled to these benefits should be stopped from being paid. Thus, it is important, as you have mentioned here, that Congress hold Social Security accountable and provide them with sufficient resources to minimize fraudulent and improper disability payments.

Mr. Chairman, that ends my statement, and I look forward to all of your questions.

Senator LEVIN. Thank you very much, Mr. Kutz.

Let us try a 7-minute round for questions.

First, about the 20 cases in the GAO report, most involved a person who got a job, started owing money in excess of the program limit of \$1,000 per month, as I understand it, did not tell the Social Security Administration about the change in their employment status or that they were earning more than the program limits.

How do you select those 20, first of all?

Mr. KUTZ. Some of it had to do with geography. Some of them had characteristics of large overpayments. As I mentioned, it was not a statistical sample. You cannot take these and project them

to the 1,500 or the 7,000 or, as you mentioned, the 24,000. But they are cases that I think identify certain issues that need to be addressed, such as the AERO system that we have recommended to them, or the fact that payroll data, as several of you have mentioned, is better data than IRS data 12 months later.

So it does raise legitimate issues, but I think that they were not representatively selected at all.

Senator LEVIN. Nor do they purport to be.

Mr. KUTZ. No, we do not purport that at all.

Senator LEVIN. And you mentioned the 1,500—and I think we mentioned that figure as well—and the 24,000. So are you able to give us an estimate of the percentage of the 1,500 in the one case and the 24,000 in the other case, what percentage of those are likely to involve fraud? Are you able to do that at all?

Mr. KUTZ. No, because—let us use the 1,500. There are certain numbers of those 1,500 that are not improper payments. There are certain conditions that would mean that they are not improper. However, there are other people that would be improper payments. For example, some of the 5,500 people, 500 more of those were SSI cases. Well, the threshold for earnings for those is \$85, so very likely many of those are improper payments. So there are some that would increase it and some that would decrease it, so we just cannot be more precise without conducting a full investigation of each case.

Senator LEVIN. Now, the Disability Insurance program had an overpayment rate of about 1 percent in 2008; the SSI program had an overpayment rate of about 10 percent in 2008 and 8 percent in 2009, according to our calculations. Does that sound about right?

Mr. KUTZ. Those are the reported numbers by Social Security, correct. We have not audited those ourselves. The IG probably looks at those.

Senator LEVIN. All right. Now, what explains—and I will ask, obviously, Social Security about this as well, but what explains that huge difference in the overpayment rate between the Disability Insurance program and the SSI program?

Mr. KUTZ. I do not know. I think the Commissioner can answer that better, but certainly they are different programs. The SSI program is a means-tested program versus the Disability Insurance program. So it would be the nature of the programs. We have not looked at the difference as to why one was higher than the other. The 1 percent to me sounds suspiciously low, given the investigation we have done here. But it is improper payments, so that does not necessarily include fraud, as one of you all have said that. So we would look mostly here at disability cases, although 300 of the 1,500 Federal workers were getting SSI.

Senator LEVIN. Do you recommend that the Social Security Administration investigate these 20 cases?

Mr. KUTZ. The 20 cases, I think they have already looked at them. We shared those with them many months ago, and I believe most of them—they represent that they identified 10 themselves, although they still got overpaid. They are aware of the other 10. I think that the payments have been shut off for most, if not all of them, and the IG is investigating several others, although with

the U.S. Attorneys you are not going to get many of these cases ever prosecuted.

Senator LEVIN. Now, of the 4.5 million Federal employees that you matched, about 1,500 received disability payments while also receiving Federal paychecks over \$1,000 a month. Is that correct?

Mr. KUTZ. For Disability Insurance, it was over \$940. That was 2008 information. But, correct, they received payments, Federal pay for more than 12 months while getting the disability because the threshold—there is the trial work period and other grace periods. So everybody above 12 months was a potential improper payment.

Senator LEVIN. And you recommended that the Social Security Administration investigate all of those 1,500 cases?

Mr. KUTZ. We could not give those to them because we had certain agreements with the people that gave us the payrolls, so they are going to have to probably get the payroll records themselves. We are not authorized to share that payroll information necessarily. But certainly I think it is something that Social Security could do with a very small investment periodically, because, again, this payroll information is every 2 weeks. So you could see, for example, workers working every 2 weeks for 12 months, 18 months, 24 months that were on disability. That would be more useful than getting IRS information, certainly.

Senator LEVIN. And why aren't you able to give the information to the Social Security Administration?

Mr. KUTZ. Because usually when we get data agreements—we have data agreements with the agencies. When we get them, we get them for the purpose of doing the work for you. If it is a fraud case or a specific case we drilled down on, we typically can refer those. When we have the larger numbers and payroll data, we typically do not give that information, because we did not investigate. As I mentioned, the other cases are not necessarily improper payments, but some probably are. But we did not actually thoroughly vet those. But, again, it is payroll data that they should be able to get through data agreements with other agencies as part of their internal controls.

Senator LEVIN. Yes, I am just wondering, though, why, if you selected 1,500 where at least there is some evidence—it may not be ultimate evidence; it may not be evidence that is absolute or anywhere near beyond a reasonable doubt, but at least it is some significant evidence that there is an overpayment. Shouldn't we allow you to forward those to the Social Security Administration?

Mr. KUTZ. We would be happy to. It is the Postal Service, Treasury, and the Department of Defense. If you would like us to work with Social Security to make sure that we can actually share that information, we would be happy to try to do that, Senator.

Senator LEVIN. I think when you go as far as you have gone with the matching—I do not see any reason why you should not be able to share that information.

Mr. KUTZ. All right. Well, we will agree to speak to those agencies and Social Security, and if they allow us to share that information, we will do it.

Senator LEVIN. All right. That would be good. And if not, tell us if there needs to be a change in the law.

Mr. KUTZ. We will let you know if we cannot.

Senator LEVIN. When you go to the extent that you have gone, this is not talking millions or hundreds of thousands. This is after all a weeding-out process.

OK. I think I will turn now to Dr. Coburn.

Senator COBURN. Thank you, Mr. Chairman.

Of the 1,500 Federal employees who could have received—and I say “could have received”—payments improperly, was there evidence in any of those cases of true fraud taking place, not just bookkeeping errors but true fraud?

Mr. KUTZ. Sixteen of the 20 we looked at. Beyond that, we really cannot tell. The 16 of the 20 had not reported their work activity to the Social Security Administration. The five that we say are fraud cases basically either admitted to us or made acts of deception that make those, in our judgment, fraud cases.

Senator COBURN. How does somebody know they have to report that to the Social Security Administration?

Mr. KUTZ. The Commissioner can surely talk about that, but I think there are certain disclosures. It is any information the people—we interviewed all 20. They all knew they were supposed to tell Social Security.

Senator COBURN. So Social Security had done a good job in advising them what their requirements were to advise back to Social Security when the beneficiary returned to work?

Mr. KUTZ. Very few said they did not know they were supposed to report. Virtually all said they had. But when we checked with Social Security, only four had actually done it according to Social Security's records.

Senator COBURN. OK. The 20 case studies, were those individuals aware that you were investigating them?

Mr. KUTZ. Yes, we interviewed every one of them, absolutely—except there is one we did not. The Social Security employee we did not because the Social Security IG Office asked to do the interview. So we interviewed 19 ourselves, and then the Social Security IG interviewed the other worker that worked for them.

Senator COBURN. After these interviews were conducted, did you get any sense of what those individuals thought about the degree of difficulty to defraud the Social Security disability system or SSI?

Mr. KUTZ. Well, I think that they believe, which is probably true, that the consequences of getting caught here are not significant. The chances of any of these people ever getting prosecuted is probably very slim. Most cases would be below a declination level for a U.S. Attorney. So from a prosecution standpoint, the risk is low.

If you get caught, you may have to pay back the whole amount with no interest, so that is not a big consequence. And you may get to pay back pennies on the dollar.

So the consequences do not seem to be for the beneficiaries that are committing fraud or getting improper payments that significant. And to be fair, a lot of these people are in serious financial trouble, so I understand Social Security has to be very understanding of these Americans with disabilities, some of them have terminal cancer or other things. So there are other factors, I am sure, that play into this.

Senator COBURN. For a number of cases, GAO provided an estimate of the SSA overpayments. Were there other costs to the Federal Government that are not captured in your estimate?

Mr. KUTZ. Yes. For example, the two truck drivers get Medicare, so if you are fraudulently getting Social Security Disability Insurance, you get Medicare after a certain period of time. And then once you are on the rolls, you get it for 93 months, or something like that; whereas, SSI, I think Medicaid is what covers them.

Senator COBURN. So you get Medicare for 93 months once you get on the roll?

Mr. KUTZ. It is 90-some months, I believe, once you get into the rolls beyond the time that you are in there, yes. It is a long time.

Senator COBURN. In my other life, I practice medicine, and I have filled out hundreds of these commercial driver's license physical exams. I have also read both the law and the regulations on eligibility for Social Security Disability Insurance and SSI. I know what I believe, but can you give a comment on your thoughts about if somebody can actually pass this physical exam, whether or not they would meet the requirements of the program?

Mr. KUTZ. Absolutely. Here is my view. These are mutually exclusive populations. You cannot really technically be on one and the other at the same time. And I am sure as a physician, a doctor, you know that. I mean, the requirements to drive a vehicle are significant. And so I think they are a mutually exclusive—maybe with some exceptions and footnotes, but for the most part, if you can drive a commercial vehicle, you should not be getting disability payments.

Senator COBURN. Was there anywhere in your study where you looked at the decisionmaking to allow people to qualify for the disability programs based on the criteria that Social Security sets up?

Mr. KUTZ. No, we did not look at the front end of this. No.

Senator COBURN. After looking at the back end, do you think there is any reason that the criteria ought to be reviewed or looked at?

Mr. KUTZ. Well, certainly, the mental disabilities, bad backs and stuff are the ones—there are certain types of conditions that seem to be more subject to fraud, and I am sure that the Social Security Commissioner can tell you those. He probably knows them much better than I do. But there are certain conditions that would lend themselves to this, and I think that is just something that we noticed when we looked at this.

Senator COBURN. I had the frequent experience of any new lawyer that came to town, if, in fact, you would not write the physical exam for Social Security the way they wanted it, they never came back and asked you to do it again because they could not get what they wanted, even though you gave an honest exam. You all have not looked at any of those areas?

Mr. KUTZ. No. I mean, from an internal control standpoint, that front end is probably the most important part of the process. Once someone gets in the system—and it is hard to get in; there is a backlog—it is harder to get out. And that is where we have some of the problems here. Once they are in, it is harder to get out, and that is where you get a lot of the improper payments.



Senator COBURN. In your assessment—and this may be premature—does SSA have an effective system to prevent overpayment fraud within the two disability programs?

Mr. KUTZ. We have not looked at it overall. There are certainly some things that we think they can do better. The data matching things that several of you have mentioned are things that we believe they should look at. They do certain matches now, for example, with the new-hire database. I believe that is for SSI only. Why they do not do it for DI, I do not know, but that is actually an excellent database. It is the information on payroll, so it gives you an indication. So things like that, that they do utilize at least for SSI, are good things. But we have not taken a comprehensive look, but I think with the backlog issues at the front end, it seems like the CDRs and some of the things they do have suffered a little bit from a resource perspective, which is—

Senator COBURN. Which is our fault.

Mr. KUTZ. Yes—well, I do not know. I am not going to blame you. I work for you. [Laughter.]

Senator COBURN. Well, I have already said I blame us, and—

Mr. KUTZ. I will let you say that.

Senator COBURN [continuing]. Senator Levin has also noted that we have not funded it appropriately.

Do you believe it would be difficult for SSA to use the AERO computer program to determine if individuals have returned to work?

Mr. KUTZ. I do not know if it would be difficult, but they have said that they are going to look at the feasibility of it, and I think it would be very useful for them to attempt to do that.

Senator COBURN. That was, by the way, one of the recommendations you all made?

Mr. KUTZ. That was one of them, and they have agreed in the recommendations to look into that.

Senator COBURN. You all did make other recommendations. Would you summarize those rather quickly?

Mr. KUTZ. It is really the AERO system and to periodically match data records at Social Security against Federal payroll records. We asked them to look at the feasibility of both of those, and they have agreed to do both of those.

I would say this, though: I think the other one that needs to be—we did not make a recommendation, but the truck driver one, as you and I just talked about here, is certainly a population that is potentially a high-return-on-investment population, so I think you may agree with me that is something that they should probably consider.

Senator COBURN. Mr. Chairman, I do not know if we are going to need to go to another round. If I had about maybe another minute and a half, I would be fine.

Senator LEVIN. Well, Senator Carper has graciously said, “Of course.”

Senator COBURN. All right. [Laughter.]

I was watching CNBC this morning, and Commissioner Astrue stated that your study was hopelessly flawed, it has no useful data and has no actual recommendations for change.

How do you respond to that? Have you ever heard anything like that on anything GAO has ever put out before?

Mr. KUTZ. Not quite that clear, no.

Senator COBURN. OK. Were those concerns raised to you—

Mr. KUTZ. Yes.

Senator COBURN [continuing]. Prior to today?

Mr. KUTZ. Absolutely.

Senator COBURN. In those same terms?

Mr. KUTZ. Probably in harsher terms. Yes.

Senator COBURN. Did you ask the Social Security Administration to comment on the methodology you all used?

Mr. KUTZ. Yes, we sent them methodology information in December 2009.

Senator COBURN. OK. And what was their response?

Mr. KUTZ. They never did respond until I guess—the “hopelessly flawed” is probably the response.

Senator COBURN. OK. Thank you, Mr. Chairman.

Senator LEVIN. Senator Carper.

Senator CARPER. Just share with us, if you could, Mr. Kutz. You were asked by Congress to do this analysis. GAO does the analysis. You come up with your findings and your recommendations. I presume when you engage with the Social Security Administration, the key people, that there is a meeting, a dialogue, a discussion to indicate to them what you have been asked to do. Is that the way it works?

Mr. KUTZ. That is correct. The initial step was we had to get—we have an entrance conference. We have requests for the larger databases, and then we pulled case studies from which we picked these 20. Those 20 are not representative, again. They were aware of those, and so they knew who the 20 were quite a while ago, which is why I believe they have taken action on most of those 20.

So at a staffing level, we had a pretty constructive, I think, dialogue with them. They never denied us any access to the case files or the databases or anything.

Senator CARPER. All right. Going back to my experience in State government, we have a State auditor in Delaware, an elected State auditor, and sometimes agency heads would feel that the State auditor, particularly as we got closer to his or her reelection, was interested in—I will not say “gotcha” investigations and reports, but you get the drift. And you are not running for reelection at GAO, so that is not a concern.

Mr. KUTZ. I would not win if I was running in the Executive Branch, that is for sure.

Senator CARPER. Well, you might. You are pretty good at this. But is there some feeling within the Social Security Administration that GAO was on a “gotcha”-like mission?

Mr. KUTZ. No, I do not think so. They have put money into their budget, for example, as I understand, to get additional authority or resources to do these CDRs and some of the other internal controls. So I think they themselves believe—it may be that they do not—I cannot explain the rest of it, but I think constructively, going forward, this can be useful to them. Certainly these case studies, I think, showed them that this AERO system could be used for more

than increasing the disability payments but actually to flag people that should not be paid.

So if anything comes from it—and I think the truck driver, as Senator Coburn was saying, his doctor—he has seen this before. He apparently has signed many of those forms. Those two populations are very much mutually exclusive if you actually understand the DOT regulations.

Senator CARPER. The Chairman was nice enough to mention the legislation that Dr. Coburn and I worked on for a number of years. It is a follow-on to 2002 legislation which called on Federal agencies to try to identify improper payments. It did not call on all the Federal agencies but some to let us get started. The legislation the President signed last month says not only do we want some Federal agencies, we want all Federal agencies to identify improper payments. We want them to stop making improper payments to the extent that they can, and that to the extent we have improperly paid money, overpaid money, or there is money that has been defrauded from the government or from the trust funds, we want you to go out and get that money.

We are trying to create almost—I do not know what Dr. Coburn calls it—but I call it within the Federal Government almost a culture of thrift, the idea that we have these huge deficits and we have to look in every nook and cranny and under every rock to see what we can do better. Everything I do I know I can do better. And I think that is true of all of us.

I would say the folks at Social Security should not be defensive about this. Just use this as an opportunity to try to do better what they are already charged with doing. And to the extent that we can be helpful, one of the things I hope to come out of this hearing today is some constructive advice for us, what we could on this side of the dais be supportive.

Let me ask, if I can, Mr. Kutz, was it difficult or relatively easy to obtain access to the Federal salary and other databases used that the auditor did? Did your team experience difficulty in gaining access? Just a short answer.

Mr. KUTZ. No. Probably the most reliable data in the Federal Government is payroll data.

Senator CARPER. OK.

Mr. KUTZ. The quickest and most reliable, I would say, yes.

Senator CARPER. Are there additional databases that your GAO audit team considered for comparison to Federal disability payments or that you would recommend the Social Security Administration might consider for its oversight work?

Mr. KUTZ. Certainly Medicare and Medicaid providers, for example, might be a population or the Central Contract Registry (CCR), which has government contractors. There are 500,000 or 600,000 of them. One would think that if you are a government contractor and you are the principal, you may have gainful employment and income. So there are potentially a lot of databases, and I think you and I have talked about this at other hearings before, the importance of data sharing in the government. We are one government, but we are thousands of stovepipes. And so you know as well as I do that there is a lot of potential out there that these agencies have that is not tapped, and really it is a matter of reaching out

and getting data-sharing agreements. It is too bad we have to do data-sharing agreements, but that is kind of how it ends up working, as you know.

Senator CARPER. Yesterday I chaired a hearing literally in this room—it was the Subcommittee of Federal Financial Management, the Federal Workforce, and the District of Columbia—and we looked at a topic that is kind of similar to what we are talking about here today. Office of Management and Budget (OMB) is pursuing some innovative ideas to try to reduce improper payments, including fraud. They are using modern information technology ideas, some very clever stuff.

For example, the White House recently announced an initiative to establish a nationwide Do Not Pay List so that all agencies can check the status of potential contractors or individuals, and we applaud them for that.

Also, Medicare will soon establish a demonstration program using a cutting-edge fraud-mapping tool that was pioneered by the Recovery Accountability and Transparency Board relating to the stimulus program. Some of those ideas rely on access to private sector databases to either corroborate the data or to gain additional insights.

Do you have any thoughts on private sector partnerships that might prove useful, including accessing commercially available databases, to confirm the employment status of disability program recipients?

Mr. KUTZ. Well, the new-hire database, as I mentioned—that is not a private sector database, but there is private sector information feeding into that from employers across the country. That is a mother lode. I mean, that is something that if they have access—I think they have access to that. That is something that has employment data presumably for anyone getting a W-2 or pay if the States properly fill that. So that certainly is something that is an important database, and there are probably others out there besides that.

Senator CARPER. I am going to ask you to answer that for the record, if you would.

Mr. KUTZ. Sure, that would be fine.

Senator CARPER. If you would, please.

The last thing I want to ask, I have talked to people before—and my colleagues may have as well, and you all may have, too—who are on disability who have the opportunity to go to work, but they are reluctant to go to work because they would lose their disability payments. In some cases, they think they deserve both. In other cases, they have said to me, “Well, it really works as a disincentive. I go to work, and I lose all or most of my disability payments.”

In trying to think about human nature and how we think, any ideas on how we might modify the incentives so that when people go to work—eventually if they make enough money, they lose their disability payments, but there is a way to structure it so that human nature does not keep people on the sidelines not working, just continue to be dependent on the rest of us. I think we have probably tried to do that in the law. I do not know if we do it perfectly. But if you have some thoughts on that at this time, I would welcome those.

Mr. KUTZ. Yes, I think the Commissioner is going to talk about it. There are lots of work incentives out there. They encourage people to go back to work. They have got the trial work period where you can be paid a 9- and 12-month grace period at the same time you are getting your disability payments. So I believe there is some. Whether there is more out there that can be done, I am certainly not an expert at that. But certainly we want to encourage our Americans with disabilities to work.

I have done a lot of work with service-disabled veteran entrepreneurs, for example, the contracting program for them. And there are a lot of possibilities for us as a government to help people in those situations get employment gainfully.

Senator CARPER. Good.

Mr. KUTZ. And those are entrepreneurs. They are good people.

Senator CARPER. Maybe I can follow up with our next panel on that. I would just say to my colleagues, I do not know if you all have heard the old saying, "Without dreams, there is no reason to work. Without work, there is no reason to dream." What we do, the work that we do, is a big part of our lives. People say, "Well, what do you do?" You meet somebody and say, "What do you do?" If they are on disability, they may say that. But a lot of people are very proud of the work they do and want to be able to say, "This is what I do." And part of what I hope comes out of this is a way we can incentivize more people to do work if they can and to realize their dreams.

Thanks very much.

Mr. KUTZ. Thank you, Senator.

Senator LEVIN. Along that line, Senator Carper, some people say that the unemployed can find work if they want to, and I come from a State with a 14-percent unemployment rate, and I have known of very few people who are not desperately looking for work who are unemployed.

Senator CARPER. I was pleased to hear that some of the folks are going back to work building cars, trucks, and vans, and very good ones as well. It was a new announcement on one of the Chrysler plants reopening.

Senator LEVIN. Indeed. Sterling Heights. Thank you.

We talked about working with database providers with the Federal employees. Can you also work with the database providers to see if you could share the 62,000 names in the other piece of your effort with the Social Security Administration?

Mr. KUTZ. That would be the Department of Transportation. Actually, there were 12 States, Senator, that we got that data from, so we will have to work through that situation. But there were 12 large States.

Senator LEVIN. But you could do that?

Mr. KUTZ. We will look into that, yes.

Senator LEVIN. OK. And then Dr. Coburn raised a question which is, I think, troubling to all of us, and that is what the quoted response is of the Social Security Administration. I always had thought that the GAO gave agencies an opportunity to comment on their findings, and that is a very important part of your process.

So in terms just of the chronology here so that we can go over that with the Social Security Administration when they testify,

how much time did they have? Was that a reasonable length of time to respond? Or was that just provided to them a few days ago? Or how does that work?

Mr. KUTZ. They had two chances to respond. The first report went to them and we actually met with them in March, and that was when they—I would say “disagreed” is an understatement with everything, and we agreed to actually go to Baltimore, and we went to Baltimore. I went myself with several staff and met with them and went over each of these 20 cases and discussed the issues.

And then we gave them a second chance to respond, and that was their formal written comments that went into our report. And then to the extent we had any disagreements—there were not quite as many disagreements in that written letter as there were with the “hopelessly flawed.” That was not the term in the letter necessarily.

So I think that we took our best shot. We spent several months working through the issues, and at some cases at the end of the day, I stand behind those 20 cases. Those are slam-dunks in my view. They may disagree with that, and I do not know what else we can do. I mean, I told you the evidence we had. We have people admitting to Federal agents that they committed fraud. I am not sure what more you need to prove a case.

Senator LEVIN. Yes. I think the issue is whether or not—we will wait to hear from them, but whether or not there is an overstatement. And I think you were careful here to say you cannot project from that.

Mr. KUTZ. No, and our report says that. These are indicators. These are things for them to consider, as you have talked about, in a constructive manner. Should we look at a database of truck drivers who receive their commercial driver’s license after Social Security said that they were 100-percent disabled? That seems to me to be a reasonable thing for them to consider.

Senator LEVIN. Do some States allow you to renew a driver’s license without a test? And could it be that—I am just speculating here—some people may want to just keep their current driver’s license alive and current so when they recover from their disability they will have a license there? Is there something like that that could explain that?

Mr. KUTZ. Absolutely. You have to get one every 2 years. You have to pay a fee. You have to pay for a doctor to actually sign. I do not know, Dr. Coburn, what you charge from that, but there certainly is a charge to have that certification.

Senator LEVIN. In other words, you must in all the States, have a doctor look at you every 2 years.

Mr. KUTZ. Every 2 years.

Senator LEVIN. It cannot be that you just send some money and get a driver’s license—

Mr. KUTZ. No.

Senator LEVIN [continuing]. Renewed without a physical exam.

Mr. KUTZ. You need a medical examination by a certified professional every 2 years.

Senator LEVIN. In all the States?

Mr. KUTZ. Every one.

Senator LEVIN. Is that a Federal requirement?

Mr. KUTZ. Yes, Senator, that is a Federal requirement.

Senator LEVIN. Very good. Thank you. Dr. Coburn.

Senator COBURN. You looked at 12 States' commercial driver's licenses. Were those the 12 most populous? In other words, you are saying we cannot extrapolate it, but I am sitting here thinking 60,000 in 12 States. Were these the most populous States? And is that why the number is so high?

Mr. KUTZ. Some of the big ones, California, Florida, Texas, but not necessarily all the big ones. So they were ones that we had worked with before on other work we have done on commercial drivers, so we had a relationship. They had good data, and they gave it to us. It is not necessarily the biggest, but some of the very biggest are in there. So it may represent 40 or 50 percent.

Senator COBURN. So we will not try to extrapolate it, but we may come back and ask you to look at that for all of them. You have worked with all the States before.

Mr. KUTZ. We have worked with many of the States. Not all, but many.

Senator COBURN. OK. Well, let me go back again. Having been a practicing physician who has filled out this form—and you have read the regulations.

Mr. KUTZ. Yes, I have.

Senator COBURN. Both in Social Security and for commercial driver's licenses.

Mr. KUTZ. Correct. We have done work for Chairman Oberstar over in the House on the transportation site, yes.

Senator COBURN. And your statement was if you are qualified to get a commercial driver's license, you are absolutely unqualified to receive Social Security disability.

Mr. KUTZ. I am sure there are exceptions, but they seem to be mutually exclusive populations, yes.

Senator COBURN. And we are not talking about the time period where somebody is getting better over the 9 months or 12 months, where they still get their payment. But if, in fact, you can pass this physical exam, there is nothing in the Social Security law or regulations that would say you are excepted from that, to your knowledge.

Mr. KUTZ. Not to my knowledge, but these 62,000 all passed, presumably, one of these exams after Social Security said that they were fully disabled.

Senator COBURN. OK. Now, it is important that we note this is not Social Security's problem necessarily.

Mr. KUTZ. Not necessarily. I agree.

Senator COBURN. Because what it means is either we have accurate exams or we have inaccurate exams. Social Security cannot make that judgment.

Mr. KUTZ. No, and I mentioned we found people that were driving that should have been receiving Social Security benefits, but they were a hazard to the road.

Senator COBURN. Right.

Mr. KUTZ. People blacking out, people on anti-seizure medication, people who were blind, who could not hear—not that they should not have a certain type of job, but 18-wheeler driving is not one of them.

Senator COBURN. Right. OK. Thank you, Mr. Chairman.

Senator LEVIN. Thank you very much, Dr. Coburn. And, Mr. Kutz, thank you.

Mr. KUTZ. Thank you again, Senator.

Senator LEVIN. You are excused, and we will now call our second witness for this afternoon's hearing.

Our second witness this afternoon is Hon. Michael Astrue, the Commissioner of the Social Security Administration. We warmly welcome you, Commissioner. We thank you for coming. We know that this required a scheduling change for you, and we are appreciative of your making that change so that we could have this hearing this afternoon.

Pursuant to Rule VI, all witnesses who testify before this Subcommittee, as you know, are required to be sworn, so please stand and raise your right hand. Do you swear that the testimony you are about to give to this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. ASTRUE. I do.

Senator LEVIN. We thank you very much, and if you can, also give us your oral testimony in no more than 7 minutes. That will leave a lot of time for questions. Your entire statement will be made part of the record, and please proceed.

**TESTIMONY OF HON. MICHAEL J. ASTRUE,<sup>1</sup> COMMISSIONER,  
SOCIAL SECURITY ADMINISTRATION**

Mr. ASTRUE. Thank you, Mr. Chairman. Chairman Levin, Ranking Member Coburn, and Members of the Subcommittee, thank you for this opportunity to discuss the Government Accountability Office's (GAO) recent investigation of Federal employees and other workers who receive Social Security disability payments. I appreciate your stewardship of Federal resources, and I strongly share your commitment to the taxpaying public.

We pay about 58 million Americans who deserve to receive their benefits timely and accurate, and we deliver on that responsibility in nearly all cases. While we certainly make some payment mistakes, fraud in our programs is exceptionally rare. Nonetheless, we work with our Inspector General (IG) to prevent it. For example, we work with our IG, State disability partners, and local law enforcement to identify and combat fraud through 21 disability investigation units across the country. This important new effort has already saved nearly \$1.5 billion for our disability programs and \$891 million for programs such as Medicare and Medicaid. We expect to open our 22nd unit by October. The agency and our Office of the Inspector General (OIG) would welcome support for these efforts.

GAO spent 21 months investigating these cases. Beginning with a large sample of over 600,000 individuals, it selected 20 cases it classified as having egregious overpayments. So far, none of the six cases that have been closed by the OIG—four of them in consultation with the Department of Justice—has resulted in an actual finding of fraud.

<sup>1</sup>The prepared statement of Mr. Astrue appears in the Appendix on page 57.



There is no question that some of these cases are problematic, and my review of each raised a number of issues.

First, when paying as many people as we do—about 12 million people get disability benefits—we do make mistakes. These mistakes are often due to the mind-bending complexity of our programs.

Second, insufficient resources to review cases compound incorrect payments.

Third, it is nearly impossible for us to know about work that is not reported to the Internal Revenue Service (IRS). While it is difficult for us to find these cases, our IG has cost-effective ways to identify and pursue some of them—a point that is not addressed in the GAO report.

Finally, the lag time for annual wage reports from IRS makes optimal enforcement actually impossible. Congress has passed complex laws to encourage disability beneficiaries to work. The Social Security Act allows some beneficiaries to work and collect benefits at the same time. It would be irresponsible and inappropriate for us to presume fraud and cut off benefits at the first sign of work. Instead, we must go through a lengthy process to identify a person's unique circumstances and apply the complex rules accordingly.

It is important to remember that these are real people who often struggle with mental as well as physical disabilities. Very few of them are out to defraud the government.

Program simplification would dramatically improve the quality of self-reporting and would improve the quality of our enforcement. We do have a thorough training program, but it takes years for employees to fully understand and implement the complexities of our work. Senator Grassley has noted that because of that complexity it takes longer for us to train field employees than it takes NASA to train an astronaut. And, sadly, he is right. As importantly, we simply do not have enough employees to handle all these cases on a timely basis, particularly in urban areas.

Between 1992 and 2007, Congress appropriated less than the President's budget request, and we could no longer fulfill many key responsibilities. Hearing backlogs rose dramatically, and program integrity work dramatically declined. Since 2007, we have been reversing these trends. With the support we have received from Congress and President Obama, we have hired employees who are gradually gaining the experience needed. Even with rising workloads, we have steadily increased our program integrity efforts in the last 3 years.

The President's fiscal year 2011 budget includes additional resources for two major efforts to prevent overpayments: Continuing Disability Reviews (CDRs) and Supplemental Security Income (SSI) redeterminations. We estimate these reviews will save more than \$7 billion over the next 10 years.

While there is room for improvement, our current processes for identifying improper payments are effective. We use electronic data matching to flag cases that warrant review. We match IRS records against our disability rolls to identify beneficiaries with earnings, but there has been a long lag time getting those records since 1977,

when Congress changed the law and moved from quarterly to annual wage reporting.

We are making it easier for beneficiaries to report their return to work. We plan to extend the existing SSI wage-reporting process to Social Security Disability Insurance (SSDI) beneficiaries. We will offer a Web site for disability beneficiaries to report their wages. We are developing a predictive model to help us prioritize cases for action. We also will be matching our payroll records against the disability rolls to identify agency employees earlier.

Despite our efforts to prevent improper payments, they do occur and we have a comprehensive debt collection program to recover them. In fiscal year 2009, we recovered over \$3 billion at a cost of only 6 cents for every dollar collected. While we make every effort to preserve taxpayer dollars, we must follow the congressional requirement to balance compassion with stewardship. We understand the importance of properly managing our resources and program dollars, and we take that responsibility very seriously. Congress can help by providing timely, adequate, and sustained funding.

Thank you, and I would be happy to answer any questions you may have.

Senator LEVIN. Thank you very much, Commissioner.

How much a part of the problem here that exists between you and the GAO has to do with the definition of fraud?

Mr. ASTRUE. I think you are in the right zone, Mr. Chairman. I will acknowledge we have had a lot of tension with GAO, and my concern is that by grossly oversimplifying fraud, GAO could mislead the Congress and the American public. The draft report came to us with some conclusions that were just flat wrong, and we were told that they were nonnegotiable. So at that point, as I discussed with you earlier, I went to Acting Comptroller General Dodaro and expressed my concerns, as Mr. Kutz said, very forcefully. To Mr. Dodaro's credit, he agreed with us and he told his staff that they needed to make some changes because there was some real risk of misleading the Congress and the public if there was not a lot more accuracy and a lot more precision in the report than was in the first draft that was sent to us.

Senator LEVIN. Now, give us some examples of the conclusions that are flat wrong in the final report.

Mr. ASTRUE. In the final report, Mr. Kutz is very clear that these are cases of fraud, but Mr. Kutz has refused to go through the whole statutory analysis in these cases to come to those conclusions. For instance, the 1,500 Federal employee match did not account for the separate, much higher standard of substantial gainful activity for the blind, nor did it account for the wage exclusions, including all the periods for extended work and trial work. GAO just wanted to do a simple match and say, "That is fraud." And that was GAO's initial position.

I complained, and the response was the language was changed to "may be fraud." But the truth is that GAO does not have any idea what percentage of those cases are fraud.

Senator LEVIN. Well, they made that clear, I think, today. Did they not?

Mr. ASTRUE. Right, but we had to go through a substantial back-and-forth to get GAO to—

Senator LEVIN. But that is the purpose of the back-and-forth, to go through the back-and-forth—

Mr. ASTRUE. But at the—

Senator LEVIN. If you will wait just one second. I am saying in the final report, after the back-and-forth, what are flat-wrong conclusions?

Mr. ASTRUE. Well, the conclusion that a lot of the world is already taking is—

Senator LEVIN. No, excuse me. Not the conclusion that the world is taking, because that is a filter which is not necessarily the GAO filter. What conclusions in the report are flat wrong?

Mr. ASTRUE. There are no data in the report that gives you or me any idea of the incidence of fraud in our programs, the incidence of improper payments in our programs.

Senator LEVIN. Well, that is a shortfall in the report, maybe.

Mr. ASTRUE. That is right.

Senator LEVIN. Maybe. But that is not a flat-wrong conclusion?

Mr. ASTRUE. Well, the flat-wrong—

Senator LEVIN. You made the allegation. There may be a flat-wrong conclusion.

I am just saying here you said that some of their conclusions are flat wrong. I am asking you, in the final report what conclusions—give us some examples—are flat wrong?

Mr. ASTRUE. In the report, GAO said 16 of the 20 cases were potentially fraud. If I am misremembering the report, because I remember I am under oath, I apologize and I will correct it for the record. Mr. Kutz said quite vigorously that is absolutely undeniable, or words to that effect.

Senator LEVIN. OK. Now, I want to get to that definition of fraud, because I do think that—

Mr. ASTRUE. Right, and we have had difficulty getting timely evidence from these investigations from GAO. I would like to submit for the record<sup>1</sup> from our OIG some of the concerns it has had about the data not being turned over to us on a timely basis. The OIG has been able to review six of these cases, and so far there is not one case of fraud in the cases. There are overpayments to be sure, but no cases of fraud yet. And four of those were done in conjunction with the Department of Justice.

Senator LEVIN. OK, that is what I want to get to, the definition of fraud. Here is what the report says: “Our investigations found that five individuals committed fraud in obtaining SSA disability benefits because they”—and here are the words—“knowingly withheld employment information from SSA. Fraud”—and I am reading from their report—“is a ‘knowing misrepresentation of the truth or’”—and here are the key words—“concealment of a material fact to induce another to act to his or her detriment.”

Do you accept that definition of fraud?

Mr. ASTRUE. I think that is substantially correct. In my opinion, GAO has been too quick on the basis of the evidence to label something fraud. And I just do not think that we actually have fraud in a lot of these cases.

<sup>1</sup>See Exhibit No. 2a. which appears in the Appendix on page 122.

Now, in a couple cases, it may just simply come down to the mental capacity of the individual at the other end. You will note that approximately half of the cases, if I recall, involve people that at one point we determined to be so mentally ill that we did not believe they could work.

Senator LEVIN. All right. But I want to go back to these words. There is an obligation to notify the Social Security Administration if somebody gets employment, and apparently, when they talked to all of these folks, they were aware of that requirement.

Is the failure in and of itself to notify the SSA of the fact that somebody is now employed, is that failure by itself fraudulent?

Mr. ASTRUE. No. It appeared to me that GAO originally started from that conclusion. It is just not accurate.

Senator LEVIN. Doesn't that get to the heart of this issue? When they say fraud is the "concealment of a material fact," they then say that if you do not inform the SSA, that in and of itself is fraudulent. Is that possible that is the conclusion that they have reached and you do not accept that?

Mr. ASTRUE. Again, I am a little reluctant to speak for GAO—

Senator LEVIN. No. Is that possible that explains the difference? You do not accept the failure to notify you per se in and of itself is fraudulent. But I think they might say that is fraudulent.

Mr. ASTRUE. I agree with you, Mr. Chairman. I think that may be part of the difference between the agencies. Another major difference is GAO's failure to consider the complexities of all our return-to-work rules, which I do not think I could fluently explain to you. In fact, Congress appropriates about \$23 million a year just to hire contractors to explain the return-to-work rules to claimants. It is that complicated. We have charts to give you more of a visual on this. The SSI program and the SSDI program have different return-to-work rules. Some people qualify for both, and those are the mind-bending complicated cases. Also, some of these claimants have mental disabilities; some of them are not very well educated.

Senator LEVIN. All right. Let me just ask Mr. Kutz a question. Is the failure to notify—forgive me for going back and forth, but we may be able to—you can just stand where you are at, if it is OK. Is the failure to notify SSA that you are now working, is that fraudulent in your study?

Mr. KUTZ. When they said that they did that in order to get the money, they knew it was wrong. In our judgment, yes, that—

Senator LEVIN. You have to add that piece, that they did it knowing that they had to notify the SSA.

Mr. KUTZ. "I needed the money." That is a justification, that was the reason why—

Senator LEVIN. I understand. And they said—

Mr. KUTZ. Right.

Senator LEVIN. Would you agree now—and then I will finish because I am over my time here. Would you agree that if somebody said, "I knew I had to report, I did not because I needed the money," would you agree that constitutes fraud?

Mr. ASTRUE. Sure.

Senator LEVIN. OK.

Mr. ASTRUE. If somebody confesses to fraud, which in our experience I think is very rare, absolutely, I agree that constitutes fraud.

Senator LEVIN. OK. Thank you. Dr. Coburn.

Senator COBURN. Let me just note for the record, in the official response to the GAO report that Mr. Astrue sent to the GAO, SSA agreed with the two GAO recommendations. In their formal response to the report, SSA agreed to the recommendations GAO made.

Now, what I am having trouble understanding—and this really gets to how do we help you.

Mr. ASTRUE. Right.

Senator COBURN. That is what this hearing is about. This hearing is not to beat up Social Security. It is not to say you are not working hard. It is how do we find the problems that will most effectively help those people who need our help, but not help people who are gaming the system. I will tell you, I am biased when we have 1 in 20 people in this country on disability. I do not believe it. As a practicing physician in a poor area of the country with lots of problems, I do not buy it. So I think there is a lot of fraud out there. We may disagree on the level of fraud.

So the whole purpose of the hearing is how do we change, to make it easier for you all to administer the disability programs. I have been through all the breakdowns of everybody that is getting disability. I know all the factors. I know the amount of schizophrenics; I know the amount of psychotics. I have it all right here. I also know the number that are disabled based on anxiety.

I will just relate a story to you. The guy that bricked my medical building was on full-time Social Security disability, and he was on it because he had a bad back. But he heave-ho's those bricks and that concrete and everything else, and he did it to every building in town and continued to get Social Security disability. And he knew he was supposed to report that he could work, but he did not.

Now, that may not be fraud to the Social Security system, but it is to the average American in this country. Mr. Chairman, I thank you for that, because we have to help you make it to where it is easier to help people and at the same time prevent fraud and abuse with the system.

We are just starting down this area. This is something I am going to work on over the next 2 or 3 years, if I am here. We are going to clean this up. We are going to make it easier for Social Security to do its job. We are going to give you the tools that you need, and we are going to give you the money. So there cannot be a reason for us not doing it, but we have to know what the real problems are.

Look, if I was running this and read this report, I would not like it either, and I know it is a difficult area to administer because I know my staff helps people get Social Security disability every day. I have two people that work on it full-time as a U.S. Senator. I know the first review is normally that you do not qualify. And I know the system and how it is gamed.

I want to go back. The AERO program could be helpful, correct?

Mr. ASTRUE. Yes, I agree, but with a qualification. I think the sense that I got from GAO—and, again, you have a lot of people here. It may be that I misunderstood. I do not mean to be unfair to GAO. The AERO system, as it is, generates such a huge amount of information that we cannot possibly follow up on the leads that

would come from it—certainly not in my professional lifetime in the agency.

What I think we can do—

Senator COBURN. Let me stop you right there for just a second. Save your second thought. It generates so much information we cannot follow up.

Mr. ASTRUE. Right. But let me—

Senator COBURN. Let me go on with that, because I hear that all the time up here, what we cannot do. We have technology available today to do all sorts of things that we could not do last year.

Mr. ASTRUE. That is the point I was trying to get to.

Senator COBURN. OK. So I think it is important. The fact is if there is data out there and if we may have a problem—and that is what you are saying, there may be a problem.

Mr. ASTRUE. Right.

Senator COBURN. The fact that somebody was not prosecuted, that does not mean anything because the Department of Justice (DOJ) is not going to prosecute them if they fall under a certain dollar amount. They are not going to even get referred. When the agency refers a case to the Justice Department for \$10,000, they know it is not going anywhere. They do not even refer anymore. Why waste their time? They know it is not a priority.

The other thing, the IRS data you are using is old.

Mr. ASTRUE. Right, absolutely.

Senator COBURN. The new-hire database is quarterly. But SSA states that using that is not cost-effective, I do not understand why that would not be cost-effective for you. Does it require too much more investment to be able to effectively use it? Or is it not cost-effective because it does not give you new data?

Mr. ASTRUE. Let me go back to AERO first. I would like to complete the thought.

Senator COBURN. OK.

Mr. ASTRUE. What we are doing increasingly when we have these millions of pieces of information, which has worked quite well for us in recent years, is utilizing predictive models. So we do not think a simplistic response to the AERO information is going to work. We think that we may be able to build computer programs that can screen through the system to identify patterns from the data that might be high predictors of fraud.

Now, we are doing that already with representative payees. We have 5 million people who take care of our recipients who are not competent, and we do have some fraud in that area. We have worked with the National Academy of Sciences on the predictive models. They are not perfect, but they really do allow us to do a lot better.

Senator COBURN. You are better than you were.

Mr. ASTRUE. One of the things that we have done is to address a lot of the concern from Congress on why it takes so long for the easy cases. There are certain people who are really disabled. So we use computer models now to scan the cases, and we can pull out with a high degree of accuracy the cases that really should be allowed, including certain types of cancers and rare genetic diseases.

Senator COBURN. Pancreatic cancer.

Mr. ASTRUE. Pancreatic cancer, those kinds of things. And we always have a human review, because you could go through a medical report and the doctor could say, "Thank God it is not pancreatic cancer," and that would just show up as pancreatic cancer in the model.

So we think that we are going to be able to do that with AERO. We are not sure. It is a long and complicated project. I would guess that maybe by sometime toward the end of next year we would have a much better sense of whether that is going to be beneficial.

For the new-hire database, my understanding is that my staff has come to the conclusion that it is not cost-beneficial. I think there are a lot of things that go into their assessment. I do not want to get that wrong or inaccurate, so I would like to submit that for the record, if I could.

Senator COBURN. So you do not think it will be beneficial.

Mr. ASTRUE. I know that my staff thinks that it is not.

Senator COBURN. Would you do us a favor and submit to the Subcommittee an analysis of why you think utilizing this data will not be cost-effective.

Mr. ASTRUE. Sure.<sup>1</sup>

If I remember correctly, we now allow claims representatives to use it on a discretionary basis when they think they see an issue. As I understand it, we get about a 2.7:1 return when we use it on a discretionary basis. When we use it on a more aggressive basis, it is just above break even, about 1.4:1.

If you look at all the other matches that we have and all the other leads that we cannot follow up on because we do not have the staff, the return to the taxpayer is much higher following up on some of the other matches. So that is my understanding of the staff's position.

Senator COBURN. That gets back to one of the things the GAO testified about today, the after-the-fact stuff.

Mr. ASTRUE. Yes.

Senator COBURN. Where you are like Medicare. You pay and chase.

Mr. ASTRUE. To some extent, Senator Coburn. Not entirely.

Senator COBURN. OK. But the point is, how do we help you on the front end? The phenomenon—we know every time we have a recession we have a big jump in disability claims.

Mr. ASTRUE. Right.

Senator COBURN. Now, did everybody get hurt because we have a recession? Or did people get more disease because we have a recession? Or is it because here is a source of revenue because we have a recession?

Both the Chairman and myself are committed to making sure those people who have true disabilities that need this country's help, we are going to help make sure that gets there. Are we going to allow what we think may be—not is, may be—significant and I will use the word "fraud?" You and I obviously have a very different definition of what fraud is. Are we going to allow fraud to steal the future from our kids?

<sup>1</sup>See Exhibit No. 2c. which appears in the Appendix on page 126.

With a large deficit that is the fault of everybody in Congress the last 20 years, not one Administration or not one President and not one party, what are we going to do together to solve the problems to get our country out of the hole we are in?

Mr. ASTRUE. First of all, I want to go—

Senator COBURN. One of the things we want to know is how do we go on the front end to make it better. My observation, in the medical field, is there are certain doctors that do Social Security disability exams. Correct?

Mr. ASTRUE. Yes.

Senator COBURN. They do a lot of them.

Mr. ASTRUE. They do.

Senator COBURN. That is right. Do you ever allocate those with the ones that are truly eligible and are not? In other words, have you ever done a statistical analysis? Because here is the way it works out there in lots of instances—not all. A lawyer hooks up with a doctor: You give me what I need, I give you a big payment for—not a bonus payment on getting disability, but you give me what I need, and you can make two and a half or three times on this physical exam versus what you were spending with some other patient. So have you all looked at that?

Mr. ASTRUE. Sure. Multiple questions, let me try to answer them.

Senator COBURN. Sorry.

Mr. ASTRUE. As I understand it, in the mid-1980s the courts interpreted the Act as creating something called the treating physician rule that basically said we have to give deference to the doctor chosen by the patient. That is not our choice, so we cannot dictate, and we do not really—

Senator COBURN. If you think there is a questionable mal-distribution of approvals, you are inhibited by law to have a second exam by somebody, the choice of the Social Security Administration?

Mr. ASTRUE. We can get second consultative exams. But as I understand—again, if I get this a little wrong, we will correct it for the record—we have to basically overcome the presumption that the treating physician's conclusions are correct, and that can be difficult in some cases.<sup>1</sup>

Senator COBURN. OK. That is fair. Again, that is exactly the thing we need to know if we are really going to help you fix it on the front end. We need to ensure we are accurately helping those people who need help, but not helping those that do not need help, because one thing that was not mentioned, Mr. Chairman, is the trust fund is going belly up in 6½ years for SSDI. There is no way we change it without doing something major in terms of supplementing it from the rest of the Federal budget. So what we have to do is be very accurate.

Would you just sit down with your key people and say—you all know the regulations better than anybody in the country; nobody else knows them like you do—“What is it that Congress could do for us that would help us meet the goals of the programs, but limit the need for us to pay and chase?”

Mr. ASTRUE. Sure. I have a backlog of answers here for you.

<sup>1</sup>See Exhibit No. 2c. which appears in the Appendix on page 126.



Senator COBURN. OK.

Mr. ASTRUE. First of all, I do not think that we are as pay and chase as most other Federal programs. By statute, we do a 50-percent quality review by our quality performance people—not the original reviewers—of all allowances. That is a statutory requirement that a lot of people overlook called pre-effectuation review. And we probably end up saving the trust funds, if I remember correctly, about \$800 to \$900 million a year through those pre-effectuation reviews.

On my watch, we are in the process of rolling out the Assess to Financial Institutions (AFI) program. We now have arrangements with banks to track assets for the Title 16 program, and we will be able to find assets that are hidden.

Senator COBURN. You are talking about SSI now.

Mr. ASTRUE. Yes. That is also a back-door way of getting at earnings because if you have inappropriate earnings, you are going to be hiding inappropriate assets.

I also think that we have tried to get the Congress' attention on the fine work the Office of the Inspector General has been doing with the Continuing Disability Investigations (CDI) programs. I have been out to look at those programs personally. I think they are a great investment for the public, and part of what they do is to develop these teams for the people who are looking at these cases on the front end. So if there is a real concern, an uneasiness, they can go and they can tap into the expertise of people with experience combating fraud.

So I think we really do a lot. I am not saying we are doing everything we could conceivably do, but I think that we do a lot on the front end to make sure it is not pay and chase.

In terms of ways you can help us, I think, with all due respect to GAO underestimates the difficulty and cost, particularly for us, of setting up matches if the other organizations are not required to do so by law. When GAO comes knocking on the door and says it wants to look at another agency's data to do a match, I think that agency jumps much more than when the Social Security Administration—

Senator COBURN. That is a way we can help you.

Mr. ASTRUE. Yes, that is right. I am on the same wavelength with you, Senator. I am making your point. And I think that could be helpful.

As I prepared for this hearing, one of the things that I learned is that we have statutory barriers to prompt collection. So if we think that there is an overpayment and we are trying, for instance, to collect it from a Federal employee, we cannot fully access on a timely basis the Treasury Offset Program, which is one of our big tools for collecting those debts because of waiting periods that have been established by the Congress in statute.

So at least one good thing that came out of the GAO report is that I learned about debt collection barriers by preparing for today's hearing. And so there are subjects like that that I would have liked to see this report go into in more detail to give specific concrete things we can do—

Senator COBURN. I promise you, they are coming back.

Mr. ASTRUE. OK.

Senator COBURN. Mr. Chairman, are you going to want to ask more questions.

Senator LEVIN. I am.

Senator COBURN. Let me yield back to you, and then I will follow up.

Senator LEVIN. First of all, I am not sure there is a definition of fraud that is different between you and the GAO, because when I asked Mr. Kutz whether per se not reporting that you are back at work is fraudulent, his answer was no, there had to be something more than that, like an acknowledgment from the people they interviewed that they did not report it because they needed the money, which I would consider also to be fraudulent because there is a knowing non-statement there, knowing that someone is relying upon your failure to report. So I am not sure it is different once he said that it is not per se fraud not to report. I am not sure of that. It seems to me you are a lot closer in that than I frankly thought you might be.

Second, I guess there are two major ways of finding out who is receiving benefits who is not supposed to be receiving benefits. One is through these checks, these computer checks, and there are various ways of doing it. Some you are continuing to explore, some you may not think are worth the investment, but some I think may be worth the investment.

Mr. ASTRUE. Yes, absolutely.

Senator LEVIN. And you get much more current information, and you are exploring that, as I understand it right now, and we would like you to report back to this Subcommittee on those explorations which you are undertaking on these matches.

Mr. ASTRUE. Yes, we would be glad to do that.

Senator LEVIN. Another way, though, I assume, is that sometimes you get reports from people.

Mr. ASTRUE. Yes, and our lead on that and our lead on fraud generally is the Office of Inspector General, and it does very important work in the process. People call our 800 number to report fraud, which is very similar to the HHS fraud line. People see someone like Senator Coburn's landlord, and they call and report; unhappy ex-spouses report. We get lots of different types of reports from the public. And probably one of the things that we can and should do better, which I will commit to try to do, is we can probably try to raise the profile of that line better than we have before. It is really the best tool that we have for getting at things like the under-the-table payments and things like that, because we cannot get that through matches.

Senator LEVIN. All right. Now, there is also in the Improper Payments Act that I referred to, that Senators Carper and Coburn took the lead on, authorizes, as I understand it, to hire recovery audit contractors to identify and recover overpayments. Are you going to be using that authority?

Mr. ASTRUE. We expect to, yes. We are discussing it with the lawyers. As I understand it, we are not quite sure of the application of the statute to certain types of things that we do. But we do think that a lot of the practices that are in the statute are things that we already have done. We have been the leader in some

of these areas for fighting improper payments. I was there when the bill was signed, and we take it extremely seriously.

Senator LEVIN. There was an IG report in July 2009, a Social Security Administration IG report, that found that the number of SSI redeterminations conducted over a 6-year period from 2003 to 2008 had dropped by more than 60 percent, while the number of SSI recipients increased by nearly 9 percent. And the IG found that by 2008, the Social Security Administration was conducting redeterminations for only 12 percent of the recipients, down from a 36-percent redetermination in fiscal year 2003. Was that a funding issue.

Mr. ASTRUE. Well, I suppose a funding issue, and it was also a will issue. When I joined the agency in 2007, I reversed the trend in declining program integrity work. We are doing substantially more redeterminations, we are doing more continuing disability reviews, and we are doing it with enormous pressure from the Congress to reduce the backlogs and in the biggest recession since the Great Depression.

So I think it is a sign of my commitment on reducing fraud and reducing improper payments that the agency was reducing the commitment to these areas in easier times, and in hard times we have made the tough choices, and we have upped our commitment in these areas. And I think it is important that we do that.

Senator LEVIN. Is there also a funding issue that goes to this?

Mr. ASTRUE. Absolutely. We do not have the people that we need to get up to the standards of 10 years ago when that was approximately, for instance, the right number of continuing disability reviews that were done. And the Congress is going to have to make a choice when the economy improves and unemployment goes down. We have significantly staffed up the disability determination services to handle 650,000 extra disability cases each year, more than we originally projected. Before the recession, we were projecting 2.65 million; we are seeing last year and this year about 3.3 million. And we have done quite a good job of staffing up and keeping new backlogs from developing—not perfect, but a pretty good job.

Senator LEVIN. So one of the ways that Congress can be helpful is to provide the funding requested for these enforcement activities.

Mr. ASTRUE. Congress will have a choice when unemployment starts to drop: Do we maintain these people? Do we move them over into CDRs? Or do we just let them attrit down and reduce the administrative budget?

Senator LEVIN. But we also have a choice this year as to whether we put in the budget request—whether we adopt the budget requested by the Administration, I assume, for these efforts.

Mr. ASTRUE. Right.

Senator LEVIN. A number of us signed a letter—it is a bipartisan letter—on this funding issue on the staffing levels.<sup>1</sup>

Mr. ASTRUE. And it has been enormously helpful, and we are extremely grateful.

Senator LEVIN. All right, but that is not a done deal yet.

Mr. ASTRUE. No. And it is one of the difficulties in planning when you go into a fiscal year and you do not know what you are

<sup>1</sup>See Exhibit No. 3 which appears in the Appendix on page 129.

going to be able to spend. It does make it harder to spend the dollars that are being appropriated in a wise and cost-effective way.

Senator LEVIN. OK. You have had better luck on the percentage of—on your success rate in getting down the erroneous payments in the SSI program, which is down to about 1 percent, in the DI program. The DI program is down to 1 percent. The SSI program I think is at 8 percent.

Mr. ASTRUE. Right.

Senator LEVIN. What explains that difference?

Mr. ASTRUE. I think the biggest difference has been the drop in redeterminations that went from a high of, if I remember correctly, 2.4 million and change down to 600,000 and change. And at that level, a lot of things happen that should not be allowed to happen. And this year we are just a few tens of thousands of cases under the all-time high for the number of redeterminations we are doing. We are doing 2.4 million and change, if I remember correctly.

We think that is going to make another substantial improvement next year. I know that my operations people believe that. I also think that the AFI program is going to be very important. So I am optimistic that our numbers are going to be improving significantly in the next 2 years, but we will have to wait and see what happens.

Senator LEVIN. Thank you. Dr. Coburn.

Senator COBURN. Talk to me for a minute about the CDR reviews and the statistical sampling you all do for their accuracy. Having done Social Security disability exams before, what background information helps you know that this is accurate? You all obviously have studied this for a long time. You know what works. What is the statistical model that supports your assertion that medical CPR mailers are 85 percent accurate. Isn't that what your numbers are?

Mr. ASTRUE. Yes, let me give you my understanding of this, but again, I will supplement my answer for the record.

You can debate the exact percentage, but there is probably a little over half, maybe 60 percent, of the beneficiaries where in any fair look you cannot reasonably expect them to go back to work. My Dad was a disability beneficiary. He had a massive cerebral hemorrhage, same form of brain cancer as Senator Kennedy. There was no way he was going back to work. There are many people in that category. Maybe 40 percent would be my number where it is a closer call, and so my understanding of what the staff does is, as I mentioned before, they develop models to try to figure out the reviews that will give the maximum return to the trust funds.

And so there are certain types of cases that are more error-prone, more fraud-prone than others, and those are weighted. Because of the cost of lifetime entitlement, not just for our programs but really more significantly for Medicare, the younger people tend to draw closer scrutiny whereas someone who is already 61 is not going to draw as much scrutiny.

So we use these screens. The psychiatric cases, the muscle tissue cases, those are the inherently difficult ones.

Senator COBURN. I agree.

Mr. ASTRUE. We try not to do CDRs for people with head and neck cancer and pancreatic cancer and ALS and diseases like that, and we try to focus—

Senator COBURN. No, I agree. You all have done statistically significant studies to show you are modeling on where you need to go.

Mr. ASTRUE. Yes, and that is how we get the 10:1 return. It may, in fact, be true that the return is a little higher right now because we have not been doing them as often. But in an optimal system, my understanding is it is about a 10:1 return.

If we did them randomly, we would not get a 10:1 return. We would get a much smaller return for the trust funds.<sup>1</sup>

Senator COBURN. Would there be any benefit if there was statutory guidelines for a larger penalty for not complying with notification, one, that you are working; and two, notification that you are working and you know you are not entitled.

Mr. ASTRUE. I think that is possible. In my preparation for this hearing, it is a question I have asked myself. I know that the staff perspective generally is that a lot of these people are economically marginal. There is a real limit to how much you can get from these people.

On the other hand, when you read through the case studies, there are certain patterns, particularly on non-cooperation, where I am looking at the cases and saying: "You know what? Maybe we should be more aggressive with our existing tools. Maybe we need some new tools."

So I think that is a fair point, and certainly on the review that I have done so far, that is high on my list.

Senator COBURN. But the real important thing is how do we help you up front.

Mr. ASTRUE. Correct.

Senator COBURN. How do we create a system where people who are getting on—first of all, that 60 or 65 percent that are unlikely to recover, we know—there is no question, we do not really even have to do a CDR. We know the outcome is not great. We know that. How do we help you with the other 35 percent?

I am going to tell you a story about a family that is collecting in excess of \$50,000 a month from your organization by teaching children how to pass the test for autism and having multiple children so that they game the system. This happened about 18 months ago in Oklahoma. What we have to do is fix it up front, because if we can really make significant changes that make it easier for you up front, the chasing later does not have to be as complex.

What I hope our hearing will generate is real good communication with this Subcommittee on what is it that you see as the problem, you and your staff; what is it that you see that needs to be changed.

Mr. Chairman. I heard a couple of times—which bothers me, which is kind of cultural within SSA, the statement was made multiple times to my staff that, "we are an entitlement agency, not an enforcement agency." If, in fact, that is the culture, then SSA is biased against the balance that needs to be there. I just wondered if you would comment. You were put there to be a compassionate agency. There is no question. But you also were put there to be an

<sup>1</sup>See Exhibit No. 2d. which appears in the Appendix on page 127.

enforcement agency of the rules and regulations that you have written and the laws.

Mr. ASTRUE. I do not know what was said. All I can say, speaking for myself, I do not see any tension between the roles, and particularly where we have been given clear guidance by Congress. And Congress has told us, for instance, in the Title 16 program, we are only allowed to recover a relatively small percentage of the debt annually because of the situation of the individuals. And so there is a tension between the public mission and the stewardship mission that sometimes Congress has told us to not be as tough as we could be on the stewardship mission.

But as I said, I came here under extremely difficult circumstances, national media and the Congress all over the agency saying, "What are you going to do about this horrible backlog problem? You are horrible people." And then the recession hit. OK? And despite all that, every single year—

Senator COBURN. You have improved.

Mr. ASTRUE. Well, we have increased the effort, and I think that we are improving generally. It is sporadic in places, but I think that the investment is paying off. And I think that the key here is for the Congress to stick with us. We are worried because there are tough budgetary times ahead. And this has been something that at times in the past Congress has lost interest in. So I think it is very important for Congress to continue to be persistent in its support of these activities.

Senator COBURN. I would tell you, I do not think Chairman Levin, once he gets an interest in anything, loses interest. I do not think I do, either. I will commit to you to make sure that we follow up. We really do need the communication coming from you of what are the problems you see, what are the recommendations that will make SSA more effective. But, again, even with the Title 16 program, if it was not overpaid in the first place, you would not have a problem with slow collection.

Mr. ASTRUE. Right.

Senator COBURN. So the key is eliminating the problem rather than allowing a problem to be created and then spending money solving the problem.

Mr. ASTRUE. Right.

Senator COBURN. I am with you. I thank you for coming and testifying before us today.

Mr. ASTRUE. Thank you.

Senator LEVIN. Well, Commissioner Astrue, thank you again for coming. The only comments that I would add to Dr. Coburn's is that I think that the compassion is clearly appropriate in many cases, obviously. There are also many cases, though, where, in fact, people are not notifying you and know they should, and the reason that they are not is because they need the money. That is not good enough.

Senator COBURN. That is what Willie Sutton said.

Senator LEVIN. That is not going to cut the mustard. And so in those cases, I would think that there ought to be interest owing on money that is wrongfully paid. Apparently, you are not allowed— if I heard your testimony correctly, you cannot recover interest on—

Mr. ASTRUE. Let me say, we do penalties and interest I believe in a relatively small—

Senator LEVIN. That is OK. As long as you have the power to do that—

[Pause.]

Mr. ASTRUE. I stand corrected. We do administrative penalties. We do not generally exercise our authority on interest. In general, the perspective has been it is tough enough getting the base payment out of these people. I think the sense has been that it makes it that much harder to actually collect what they promise to pay with the interest on top of it. But I think it is a fair question, and it is something that we should go back and reexamine with an open mind.

Senator LEVIN. You may have a lot of situations where it is going to be counterproductive to pile on the interest, but you are going to have a lot—there is a deterrent effect here, too. According to Mr. Kutz, we have people that the GAO talks to who say, “Yes, I know I was supposed to report, and I did not.” “Why didn’t you?” “I needed the money”? That is not compassion.

Mr. ASTRUE. I agree with that.

Senator LEVIN. To the taxpayer, that is—

Mr. ASTRUE. And what I want to make sure is that in the effort to catch those people whom we very much want to catch, I just want to make sure that we do not catch the people who are trying and hopelessly confused by one of the most confusing systems that we inflict on the American people.

Senator LEVIN. That is fair enough, and we should give you the waiver authority. It is not something that should be automatic. But unless people know that they cannot just simply say, “I needed the money so I did not report”—

Mr. ASTRUE. Sure.

Senator LEVIN. And my final comment has to do with you and the GAO. You both perform essential services, one you do for the public, the GAO for us. We need that watchdog. And so what we need you to do, where there are disagreements—those are going to happen all the time, but we should not have disagreements over definitions.

Mr. ASTRUE. Sure.

Senator LEVIN. Fraud ought to be commonly defined or told to us that there is a difference on this. And it makes a huge difference in terms of those numbers. I think part of the problem here probably was that there was an exaggerated statement about what they found, not by them but possibly by somebody in the media. It is rare that there is an exaggeration like that. But once in a blue moon it does happen. This may have been the blue moon. But we cannot allow that remote possibility to get in the way of two agencies that are so important, yours for the millions of people, the GAO for the millions, too, but through the Congress.

Mr. ASTRUE. I agree, Mr. Chairman.

Senator LEVIN. Finally, a request which kind of goes in the opposite direction of trying to make sure we do not overpay folks who are able to work, and that is, we have this backlog in processing applications, and I know you get this a lot. I just want to let you know it is an important issue. We hope we get enough funding in

here to reduce that backlog for the people who are entitled and should be given disability. We do not want them waiting in line 3 years. I think you have cut down that backlog, and I give you credit for that. But I just want to mention that because it is an issue, and it is an issue which cuts in the other direction. But as both of us say, we want the right people to get the help. We do not want people who are not entitled to help to get it for two reasons: The law does not allow it; equally significantly, if not more, we cannot afford the resources that way. We have to put the resources where they should be going.

Mr. ASTRUE. So, Mr. Chairman, I rarely have the opportunity to give unadulterated good news to Members of Congress, so if you could indulge me for a moment.

Senator LEVIN. That is a good note to end on.

Mr. ASTRUE. So in addition to having each year pretty much steadily reduced the backlog for all five of the offices, I believe you are on the verge of the big change. So in Livonia, Michigan, next week we will open a new hearing office. I will not be able to make it—because of a commitment to Senator Baucus—to the Mount Pleasant opening on August 23. There is also a satellite office planned for Marquette. I believe the General Services Administration (GSA) still has to finalize some things, but it will open probably next spring. So there is significant additional capacity coming to Michigan.

Senator LEVIN. And I assume that is true around the country that you are trying to get these backlogs down.

Mr. ASTRUE. We have 25 offices opening in an 18-month period over the base of 142. We have looked at the demographics. We have looked at the economics. We have looked at the filing patterns. And what we have tried to do is take the pressure off the most backlogged offices.

So in the beginning of fiscal year 2007, Atlanta and Atlanta North were at 900 days and 885 days as an average processing time. We only have two offices left in the country that are over 600 days. They will be under 600 days and probably under 500 before long with the new offices. So I think we are making very substantial progress.

We also keep a focus on the aged cases, which the agency was not doing before, and we have raised the standard every year. So when I started, an aged case—

Senator LEVIN. A what case?

Mr. ASTRUE. An aged case.

Senator LEVIN. We call that seniority around here. [Laughter.]

Mr. ASTRUE. A vintage case. We had 65,000 cases that had been waiting a thousand days or more. We had people in this country who had been waiting 1,400 days for a hearing. So in addition to trying to improve the average, we have insisted on going after the outliers. In every single year I have been on the job, we have raised the bar on the agency. So this year the bar is 825 days, which is the longest anyone is going to be waiting for a hearing. We are ahead of goal on that. We will make it. We will adjust that goal downward, probably around 750 or 775 days for next year. And each year, in addition to bringing down the average times, we are making sure that there are not those outliers out there. We are



making steady progress, and we are grateful for the support of you and the Congress for that effort.

Senator LEVIN. And Dr. Coburn, of course, points out that the quality of those reviews, to make sure we get it right up front, is important as well as making sure we do not keep people waiting for 3 years. And I agree with his sentiment on that as well.

We thank you. We thank our witnesses.

Mr. ASTRUE. Thank you, Mr. Chairman.

Senator LEVIN. I think it has been a very useful hearing.

Senator COBURN. Again, I thank both of you. I would note, earlier in your testimony you said, I think, you spend \$20 million on contractors for educating people on this information. I think one of the things that GAO did find out, although I do not think they put it in their study, SSA is doing a pretty good job of telling people what they are supposed to do. The problem is compliance, once you know what you are supposed to do versus doing what you are supposed to do. So I think you have a good contractor regarding educating the recipients.

Mr. ASTRUE. I agree, and I think the challenge is generally making sure the obligation to report is understood. Where we run into difficulty is the trial work period, the extended period of eligibility, and the complexities of the ticket-to-work program. I think if you survey claimants, they are baffled by it, and that is really where the contractor has the issue—getting the claimants to understand those difficulties. So I think a lot of the time where there are good-faith mistakes made by claimants, it really does derive from the complexity of the program. And if we simplify the program, we will have fewer of those mistakes up front. We are working on a simplification proposal for next year's budget, which we will see whether we can get approved.

Senator COBURN. Send it to us.

Mr. ASTRUE. That is exactly what you are asking us to do.

Senator COBURN. You have bipartisan agreement. We want to fix the problems.

Mr. ASTRUE. OK.

Senator LEVIN. Does most of that complexity come from regulation or from legislation?

Mr. ASTRUE. It is from legislation, Mr. Chairman.

Senator LEVIN. Send us recommendations.

Mr. ASTRUE. We are working on it. We have been working on it for a long time. We are hopefully towards the tail end.

Senator LEVIN. Thank you both again.

[Whereupon, at 4:25 p.m., the Subcommittee was adjourned.]



# APPENDIX

## PRESS RELEASE

U. S. Senate Permanent Subcommittee on Investigations  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE

Carl Levin, Chairman



FOR IMMEDIATE RELEASE  
August 4, 2010

Contact: Tara Andringa: 202-228-3685

### **Opening Statement of Senator Carl Levin (D-Mich.) Permanent Subcommittee on Investigations Hearing On Social Security Disability Overpayments**

The Social Security Administration manages two programs that together provide a critical safety net for millions of Americans with disabilities. The first is the Social Security Disability Insurance (DI) program which provides benefits to disabled individuals who can no longer work. The second is the Supplemental Security Income (SSI) program, a portion of which provides support to disabled persons and their families based upon financial need. In 2009, these two programs provided disabled Americans with financial benefits totaling nearly \$160 billion.

\$160 billion is a big number even by Washington standards, and the purpose of today's hearing, which was initiated at the request of Senator Coburn, is to strengthen stewardship of our disability programs to ensure that the benefits are going to those who really need and are entitled to them, and that precious dollars are not spent unwisely, erroneously, or wrongfully in these important programs.

The Social Security Administration has long acknowledged that its disability programs are not infallible. Sometimes the programs overpay the benefits owed; sometimes they underpay. Overall, SSA has overpaid, and the total amount of uncollected overpayments has grown from about \$7.6 billion by the end of 2004, to \$10.7 billion by the end of 2008. While the overpayment rate in the Disability Insurance program has been quite low, totaling about 1% in FY2008, the overpayment rate in the Supplemental Security Income program has been far higher – 10 percent. In FY2009, the SSI program reduced its overpayment rate to 8%, a reduction from the prior year, but that's still too high.

To help bring down that overpayment rate, today's hearing focuses on a Government Accountability Office report evaluating disability payments made to persons who work. While most disability recipients are unable to work, the government allows disabled individuals to undertake a 9-month trial work period, without losing their benefits, to see if they can manage a job. When a disability recipient takes a job, they are required to notify SSA about their employment status and whether they are earning in excess of program limits.

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The GAO report focuses on the extent to which disability recipients may be abusing that work program. To do so, GAO conducted two data matches. First, GAO matched a database of social security disability recipients against federal payroll databases covering about 4.5 million persons who worked for government agencies for varying periods of time from October 2006 to December 2008. Of those 4.5 million federal employees, GAO identified about 24,500 who received disability payments while also earning federal paychecks. Since disabled persons are encouraged to work, and most of those 24,500 workers were paid less than the disability program limit of about \$1,000 per month, many may have been in compliance with the program rules. However, 1,500 of those federal employees were paid more than the program limit of about \$1,000 per month, which means that they may have been improperly receiving disability payments. While 1500 out of 4.5 million represents a very small percentage – only 0.03% of the total -- those 1500 employees received disability benefits totaling \$1.7 million per month.

The second match GAO performed compared the disability rolls to a database of 600,000 persons holding a commercial drivers license (CDL), as well as another database, and identified 62,000 individuals who received their commercial drivers license after their disability start date. That data match, like the federal employee match, raises questions about whether those workers may be improperly receiving disability payments worth millions of dollars.

GAO used the data matches to select 20 individuals for additional analysis, 18 of whom were federal employees and 2 of whom held commercial drivers licenses. GAO concluded that all 20 were improperly receiving disability payments, finding that in 5 cases, fraud was involved on the part of the individual, 11 involved potential fraud, and 4 did not involve fraud, but administrative errors on the part of SSA. Those 20 cases were not randomly selected; GAO picked them because they had facts suggesting fraud. These 20 cases illustrate some of the abuses that are occurring and that need to be stopped

The fraud cases involved individuals who received disability payments, were later able to land a job, and then failed to tell SSA about their employment. The administrative error cases involved workers who told SSA to stop their disability payments or SSA determined that the payments should stop, but the payments kept arriving anyway. In one case, GAO reported that an individual told the agency to stop making payments when he first landed a job and again two years later, but kept receiving funds. GAO wrote: “[A]fter 2 years of full-time work, [the individual] again contacted SSA and implored the agency to stop paying him because he knew something was not right and that he would have to return the money.” That person must now repay the \$12,000 erroneously sent to him.

More can be done to stop improper disability payments to workers. As a first step, SSA should investigate the 1500 federal employees and 62,000 commercial drivers license holders identified by GAO. Resolving those cases alone could save millions of dollars in overpayments.

Second, SSA needs to set up additional data matches to identify improper payments going to workers. Right now, SSA undertakes a data match three times a year comparing its disability rolls to wage data compiled by the IRS from W2 forms submitted with the prior year's tax returns. While useful, that approach provides SSA with wage data that is 12-18 months out of date. SSA could supplement this approach by performing regular data matches with more timely federal payroll data, which is compiled every 2-4 weeks. SSA should also investigate other wage databases that could be used to root out overpayments to employed individuals, especially in the SSI program.

Third, SSA needs to strengthen its internal controls to halt payments that a disability recipient says should stop.

Congress also has a role in stopping the overpayments. SSA currently uses two mechanisms to police disability payments, Continuing Disability Reviews (CDRs) in the Disability Insurance program and Supplemental Security Income (SSI) redeterminations. Both evaluate whether payments should be discontinued because a person is no longer disabled. Studies show that CDRs save \$10 for each dollar spent, while SSI redeterminations save \$8 for each dollar spent.

Despite these cost savings, until recently, there has been limited funding for these reviews. According to SSA data, ten years ago, in 2000, it spent about \$600 million on CDRs. By 2007, the funding had dropped to less than half to about \$300 million. By 2009, funding was back up to \$400 million, still that's still a third less than ten years ago. Similarly, funding for SSI redeterminations dropped to less than half from 2000 to 2007, and has only slowly regained ground since then.

The current Administration has proposed increasing funding for CDRs and redeterminations in FY2011, which I hope Congress will support. We need to invest in oversight and enforcement to stop the abuses. There's little point in criticizing SSA for failing to reduce billions of dollars in overpayments if we deny them the oversight and enforcement funds needed to do just that.

Finally, I would be remiss not to mention one other longstanding disability issue that has plagued my home state of Michigan as well as the rest of the country – the huge backlog in processing applicants who were denied benefits. Some individuals now wait as long as 3 years for a complete review of their disability applications, undergoing enormous financial pressures in the meantime. While this backlog is down from its height, hundreds of thousands of people are still caught up in the system, most waiting for appeals hearings. SSA has a plan to eliminate this backlog by 2013, but it requires Congress to approve the Administration's funding request for that purpose as well.

Federal disability payments provide an essential safety net to millions of disabled Americans. Application backlogs deny critically needed benefits, while improper payments reduce the funds available to those who truly need them. SSA needs to strengthen its internal controls to address both problems. I commend Sen. Coburn for his leadership on this issue and turn to him now for his opening remarks.

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**Opening Statement of Senator Tom Coburn****Permanent Subcommittee on Investigations: *Social Security Disability Fraud: Case Studies in Federal Employees and Commercial Drivers Licenses*****August 4, 2010**

I would like thank Senator Levin for holding this hearing.

Today, we are here to focus on the results of a Government Accountability Office investigation into the Social Security Administration's (SSA) disability programs. In it, GAO found that tens of thousands of beneficiaries may be scamming the program, or at least getting benefits they do not deserve.

The purpose of this hearing is to ask questions about the report and about how we eliminate fraud and save taxpayer money in these programs. Last year, the agency's disability programs paid almost **\$159 billion** in disability claims. At last count, **1 in 20 Americans** received disability payments through these programs.

As a doctor, I am certainly aware of the issues and difficulties that a disabled individual faces. Common, everyday tasks that you and I take for granted can be difficult, if not impossible, for these good people. Many of these folks depend on these payments to survive. I firmly believe that these programs truly help disabled Americans that rightfully qualify. However, determining that someone is truly disabled and unable to work at any job in the national economy – the standard used by SSA – should be a high bar to meet.

The challenge is how do you stop the cheaters. In my profession, I have also encountered scores of healthy individuals that want nothing more than to scam the system. We cannot afford to allow healthy people to waste our money. Nor can the Disability Insurance Trust Fund afford it. The Congressional Budget Office recently concluded that the Trust Fund will be exhausted by 2018.

GAO's investigation into fraud in the Social Security disability programs is not its first. In 1997, they designated the SSI program as "high risk" due to years of mismanagement and overpayments. GAO also previously identified nearly **\$3 billion** in overpayments from 1999 to 2003 in the DI program alone. In today's report, GAO found **\$10.7 billion** more in overpayments from fiscal years 2004 to 2008.

In response to these numbers, SSA's disappointing reply was that "overpayments are unavoidable." This is unacceptable. It is also in direct contradiction with the President's mandate that overpayments in government programs be eliminated.

The increase in the size of these programs has also led to an increase in fraud. At present, SSA primarily relies on beneficiaries to self-report that they are working or no longer disabled, which they rarely do for fear of losing their benefits. While SSA also uses federal databases to see if people are working, these policing mechanisms aren't working.

By simply cross-referencing a list of federal employees against the list of disability recipients, GAO determined that at least 1,500 federal workers were improperly – and in some cases, fraudulently – receiving disability checks while they were also working full-time government jobs. In fact, GAO determined that at least one of these individuals *even worked at the Social Security Administration*. At the very least, SSA must do a better job of making sure that federal employees aren't abusing its programs.

GAO also uncovered 62,000 individuals in 12 states on disability who hold active Commercial Drivers Licenses. Everyone who holds a Commercial Drivers License must undergo a medical exam. It seems unlikely that a person could pass a medical exam if they were truly disabled. Yet, it happened 62,000 times in just 12 states. While holding a Commercial Drivers License is not definitive proof that an individual is no longer disabled or working, it certainly is a strong indication that warrants further review.

Fraud on these programs is unacceptable and raises major concerns with SSA's administration of the disability programs. As our Subcommittee and GAO continue to investigate these problems, we hope to further educate ourselves and the public on how these individuals are defrauding the system, expose them, and fix the problem.

Finally, I don't want to put all of the blame on SSA. It is Congress who created these two complicated disability programs. And with the creation of a government program comes the responsibility to provide oversight and ensure that it is running effectively and properly. Sadly, it does not seem to be the case. Many of the problems seem to be systemic and have plagued these programs for years. They come from a culture that believes that SSA is an entitlement agency, and not an enforcement agency. The reality is that it is both, and one of these priorities should not be elevated above the other. It is imperative that Congress address these problems to protect the integrity of these programs for those who rightfully qualify for them.

I want to thank the witness for being here today and look forward to their testimony.



**STATEMENT OF SENATOR TOM CARPER**  
*Social Security Disability Fraud: Case Studies in Federal Employees and Commercial  
Drivers Licenses*  
**Senate Permanent Subcommittee on Investigation**  
**August 4, 2010**

Chairman Levin and Ranking Member Coburn, thank you for holding today's hearing. Overpayments and fraud within the federal government's disability benefits programs is an important topic and deserves the attention of Congress and this subcommittee.

I should note that in July we celebrated the 20<sup>th</sup> anniversary of the passage of the Americans with Disabilities Act. This anniversary reminded me of the many people in Delaware and across the nation who face the challenges of physical and mental disabilities every day. The Social Security disability programs are a critical lifeline for many who are facing huge economic challenges.

As the witnesses' testimony will show, the Supplemental Security Income program and the Disability Insurance program are very large. In 2009, these two disability programs provided benefits totaling nearly \$160 billion. By April 2010, there were nearly 18 million people enrolled in the two programs and nearly one in twenty Americans is receiving disability benefits. In fact, the number of individuals applying for disability continues to grow. The Congressional Research Service estimates that the current backlog of pending applications awaiting an initial determination by the Social Security Administration exceeds one million people.

With programs of this size and complexity, oversight is, of course, very important for ensuring our taxpayer dollars are spent appropriately.

Unfortunately, the two disability payment programs managed by the Social Security Administration make very large amounts of overpayments. According to the Social Security Administration's latest reporting, improper payments totaled more than \$10.7 billion. There is also fraud.

Last year, I joined with the Ranking Member of this Subcommittee, Senator Coburn, and Senator McCain to request that the Government Accountability Office examine the two disability payment programs for possible improper payments. The resulting audit underscores the need for reforms and improvements to the oversight of the two Social Security disability programs.

I think we can draw many useful conclusions from GAO's findings and recommendations.

I also understand that the Social Security Administration Inspector General has conducted audits, and their findings are along similar lines.

My staff in Delaware work with many constituents who receive benefits from the Social Security disability programs. These constituents report many problems that further illustrate the challenges of improper payments, including how the constituents must, too often, work very long and hard with the Social Security Administration to straighten out errors.

Due to the complexity and size of the two disability payment programs, I don't think there is a single, "silver bullet" solution. There are likely many ideas that must be heard, debated and implemented. However, one idea I would like to explore is if Congress is being "penny-wise, and pound-foolish." I understand that the Inspector General noted that we could easily avoid billions in overpayments if we make a relatively small increase in our oversight investment.

I also wish to explore some of the creative ideas proposed today by the GAO, as well as others proposals, to improve the system.

Mr. Chairman, I look forward to our witnesses' testimony.

United States Government Accountability Office

**GAO**

Testimony  
Before the Permanent Subcommittee on  
Investigations, Committee on Homeland  
Security and Governmental Affairs,  
U.S. Senate

For Release on Delivery  
Expected at 2:30 p.m. EDT  
Wednesday, August 4, 2010

**SOCIAL SECURITY  
ADMINISTRATION**

**Cases of Federal Employees  
and Transportation Drivers  
and Owners Who  
Fraudulently and/or  
Improperly Received SSA  
Benefits**

Statement of Gregory D. Kutz, Managing Director  
Forensic Audits and Special Investigations



GAO-10-949T

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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss the results of our investigation of the disability programs managed by the Social Security Administration (SSA). SSA administers two of the nation's largest cash benefit programs for people with disabilities: the Disability Insurance (DI) program,<sup>1</sup> which provides benefits to workers with disabilities and their family members, and the Supplemental Security Income (SSI) program, which provides income for aged, blind, or disabled people with limited income and resources. In 2008, the DI program provided about \$104 billion to some 9 million beneficiaries,<sup>2</sup> and the SSI program provided about \$38 billion in financial benefits to some 7.5 million recipients.<sup>3</sup>

Given the magnitude of these cash benefit payments, it is important for SSA to have effective fraud prevention controls in place to minimize fraudulent and improper payments. My statement today summarizes our most recent report, describing cases of federal workers, commercial drivers, and commercial vehicle company owners who fraudulently or improperly received disability benefits.<sup>4</sup> The objectives of the investigation were to (1) determine whether federal employees and commercial vehicle drivers and company owners may be improperly receiving disability benefits and (2) develop case study examples of individuals who fraudulently and/or improperly received these benefits. In conducting this investigation, we compared DI and SSI benefit data to civilian payroll records of certain federal agencies<sup>5</sup> and carrier/driver records from the

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<sup>1</sup>To be eligible for DI benefits, individuals with disabilities must have a specified number of recent work credits under Social Security at the onset of medical impairment. Individuals may also be able to qualify based on the work record of a deceased spouse or of a parent who is deceased, retired, or eligible for disability benefits.

<sup>2</sup>The approximately 9 million DI beneficiaries include about 7 million eligible workers and about 2 million dependent spouses and children.

<sup>3</sup>The 7.5 million SSI recipients include 6.3 million recipients who are either blind or medically impaired and 1.2 million aged recipients.

<sup>4</sup>GAO, *Social Security Administration: Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments*, GAO-10-444 (Washington, D.C.: June 25, 2010).

<sup>5</sup>The payroll records were obtained from the Department of the Treasury, the U.S. Postal Service, and the Defense Finance and Accounting Service (DFAS).

Department of Transportation (DOT) and 12 selected states.<sup>6</sup> To develop our cases, we interviewed, as appropriate, each beneficiary and the beneficiary's employer and reviewed relevant SSA case file documents and employer payroll records. We conducted our audit work in accordance with generally accepted government auditing standards and our investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

### **Federal Employees, Commercial Drivers, and Commercial Vehicle Company Owners Received SSA Disability Benefits**

Thousands of federal employees, commercial drivers, and owners of commercial vehicle companies received Social Security disability benefits during fiscal year 2008, though we could not determine the extent to which beneficiaries improperly or fraudulently received payments. Because further investigation is required to determine whether these individuals are entitled to receive payments, our analysis provides only an indicator of potentially improper or fraudulent activity.<sup>7</sup>

Federal salary data from selected agencies for October 2006 through December 2008 show that about 1,500 federal employees may be improperly receiving payments.<sup>8</sup> These employees were (1) DI beneficiaries who received federal salary above the earnings threshold for more than 12 months after the start date of their disabilities or (2) SSI recipients who received more than 2 months of federal salary above the maximum SSA earnings threshold for the SSI program after the start date of their disabilities. Based on their SSA benefit amounts, we estimate that these federal employees received about \$1.7 million in benefits a month.

<sup>6</sup>The 12 selected states were California, Florida, Illinois, Kentucky, Maryland, Michigan, Minnesota, Montana, Tennessee, Texas, Virginia, and Wisconsin. The 12 states were selected primarily based on the size of the licensed commercial driver population.

<sup>7</sup>Federal disability programs, such as SSA's "Ticket to Work," encourage certain disability beneficiaries to work and still receive all or a portion of their disability benefits. In addition, from the beneficiary's income, SSA may exclude certain out-of-pocket work expenses (e.g., costs of car modifications or attendant care) from the calculation of the beneficiary's income. The beneficiary's salary may also include compensation for sick leave, which SSA also excludes from the calculation of the beneficiary's income. From our analysis of the data, it is impossible to determine the extent to which this population beyond our 20 cases was affected by these factors.

<sup>8</sup>Federal civilian salary data and SSA disability data indicate that the total number of employees at the selected agencies is about 7,000. They earned wages while receiving SSA disability benefits during fiscal year 2008. While many of these beneficiaries may not receive payments fraudulently or improperly, the number suggests the importance of monitoring these cases.

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According to SSA officials, SSA currently does not obtain payroll records from the federal government to identify SSA disability beneficiaries or recipients who are currently working. SSA officials stated that they have not determined the feasibility of conducting such a match. However, SSA acknowledged that these payroll records may be helpful in more quickly identifying individuals who are working so that work continuing disability reviews could be performed to evaluate whether those individuals should have their disability payments suspended.

Our analysis of data from DOT on commercial drivers and from SSA on disability beneficiaries found that about 600,000 individuals had been issued commercial driver's licenses (CDL) and were receiving full Social Security disability benefits. The actual number of SSA disability beneficiaries with active CDLs cannot be determined for two reasons. First, states, not DOT, maintain the current status of CDLs.<sup>9</sup> Second, possession of a CDL does not necessarily indicate that the individual returned to work. Because federal regulations require interstate commercial drivers to be examined and certified by a licensed medical examiner to be able to physically drive a commercial vehicle once every 2 years, we selected a nonrepresentative selection of 12 states<sup>10</sup> to determine how many SSA disability beneficiaries had CDLs issued after their disabilities were determined by SSA. Of the 600,000 CDL holders receiving Social Security disability benefits, about 144,000 of these individuals were from our 12 selected states. About 62,000 of these 144,000 individuals, or about 43 percent, had CDLs that were issued after SSA determined that the individuals met the federal requirements for full disability benefits. Because federal regulations require interstate commercial drivers to be examined and certified every 2 years by a licensed medical examiner to be able to physically drive a commercial vehicle, we consider the issuance of CDLs to be an indication that these individuals may no longer have serious medical conditions and may have returned to work.

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<sup>9</sup>The DOT data do not contain identifiers to indicate whether a license is currently active. It is an index system designed to ensure that drivers do not obtain CDLs from multiple states. As a result, DOT's database includes drivers with valid, suspended, revoked, or lapsed licenses.

<sup>10</sup>The states were chosen primarily based on size and availability of data.

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Our analysis of DOT data on commercial carriers found about 7,900 individuals who registered as transportation businesses<sup>11</sup> and also received SSA disability benefits. The extent to which these business registrants are obtaining disability benefits fraudulently, improperly, or both is not known because each case must be investigated separately for such a determination to be reached. These companies may have gone out of business and not reported their closure to DOT, which would explain their registration. In addition, DI beneficiaries may have a passive interest in the business, which would not affect their eligibility for benefits. However, we believe that the registration of a business is an indicator that the individual could be actively engaged in the management of the company and gainfully employed, potentially disqualifying him or her from receiving either DI or SSI benefits. It also suggests that the individual's assets may exceed the SSI maximum for eligibility.

According to SSA officials, SSA currently does not obtain CDL or transportation businesses registrant records from DOT. SSA officials stated that these records do not have specific income records associated with them.

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### Examples of Individuals Fraudulently and/or Improperly Receiving SSA Disability Benefits

Based on our overall analysis above, we selected 20 nonrepresentative examples of federal employees, commercial drivers, and registrants of commercial vehicle companies who received disability payments fraudulently and/or improperly. The 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the higher overpayment amounts, the types of employment, and the locations of employment, and thus they cannot be projected to other federal employees, commercial drivers, or commercial vehicle owners who received SSA disability payments. In each case, SSA's internal controls did not prevent improper and fraudulent payments, and as a result, tens of thousands of dollars of overpayments were made to individuals for 18 of these 20 cases.

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<sup>11</sup>Each business is a registered motor carrier in DOT's Motor Carrier Management Information System with an active DOT number. For private motor carriers, there is no cost associated with maintaining an active listing.

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For the 20 cases, our investigations found the following:

- For five cases, we believe that there is sufficient evidence that the beneficiaries committed fraud to obtain or continue receiving Social Security disability payments by withholding employment information. Our investigations also found that 11 other individuals potentially committed fraud because these individuals likely withheld required employment information from SSA.
- For 10 cases, SSA improperly increased the benefit amounts of the disability payments because the individuals had increases in the reported wages on which the disability benefit payments are based. SSA's Automated Earnings Reappraisal Operation (AERO), which screens changes in an individual's earnings record, is not used to identify individuals who return to work and alert SSA staff to review these individuals' records for possible suspension of disability payments.<sup>12</sup>
- Several individuals from our cases were placed in long-term, interest-free repayment plans for improperly accepting disability overpayments, even though SSA can charge interest. One individual's \$33,000 repayment plan was in \$20 monthly installments—resulting in a repayment period of 130 years.
- For 10 cases, the individuals were continuing to receive disability benefits as of October 2009.

For 18 of these 20 cases, the individuals also received \$250 stimulus checks as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act) while they were improperly receiving SSA disability payments. According to SSA officials, most of these individuals were entitled to and would have received the \$250 stimulus checks even if SSA had properly suspended the disability payments to them. Specifically, SSA officials stated that beneficiaries covered under the DI program would have been covered under an extended period of eligibility (EPE),<sup>13</sup> which is a 36-month period in which SSA does not pay any benefit amounts (i.e., payments are suspended) if the beneficiary has earnings above the

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<sup>12</sup>AERO is a computer operation that reexamines an individual's earnings record to determine whether the beneficiary is due a recomputation to include earnings not previously considered in the monthly disability amount. If an increase is due, AERO processes a benefit change and notifies the beneficiary. If no increase is due, AERO does not send a notice. AERO is run twice for each earnings year, usually in late October and late March.

<sup>13</sup>After the 9-month trial work period, SSA beneficiaries are covered under an EPE. This is a 36-month period in which SSA does not pay any benefit amounts if the beneficiary has earnings above the SSA earnings threshold for the DI program. If earnings are under the substantial gainful activity threshold, the full benefit is paid.



substantial gainful activity (SGA)<sup>14</sup> threshold. According to SSA officials, all working DI beneficiaries covered by an EPE received the \$250 stimulus check.

The Recovery Act states that these stimulus benefit payments should be provided to individuals who are entitled to DI benefit payments or are eligible for SSI cash benefits.<sup>15</sup> SSA stated that it did not seek a formal legal determination as to whether individuals who had their payments suspended because of employment should receive these stimulus payments. In total, SSA paid about \$10.5 million in stimulus payments to approximately 42,000 individuals who were covered by an EPE.<sup>16</sup> However, we believe that a question exists as to whether these payments were proper and believe that SSA should have at least sought a formal legal opinion before making the payments.

Table 1 highlights 5 of the 20 individuals we investigated. We referred all 20 cases to SSA management for collection action. The SSA Office of Inspector General has been informed of the 5 cases in which we believe the individuals committed fraud. We also referred 1 case involving an SSA employee to the SSA Office of Inspector General for investigation.

**Table 1: Summary Information on Federal Employees and Commercial Vehicle Company Owners Who Improperly or Fraudulently Received SSA Disability Benefits While Working**

| Case no. | Details  |
|----------|--|
| 1        | <ul style="list-style-type: none"> <li>Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>The beneficiary was a Transportation Security Administration screener who worked in California. The estimated overpayment was about \$108,000.</li> <li>SSA approved DI payments starting in 1995 for mood and anxiety disorders.</li> <li>The beneficiary began full-time federal employment in 2003. From 2003 through 2008, her annual earnings were from \$36,000 to \$50,000.</li> <li>SSA requested a Work Activity Report from the beneficiary in April 2005, but the beneficiary did not provide it.</li> <li>In November 2005, SSA notified the beneficiary that based on wages earned in 2004 her benefits would be increased.</li> </ul> |

<sup>14</sup>SGA is defined as work activity that involves significant physical or mental activities performed for pay or profit. SSA has established earnings guidelines as a basis for determining whether an individual is engaged in SGA.

<sup>15</sup>Pub. L. No. 111-5 § 2201 (Feb. 17, 2009).

<sup>16</sup>According to SSA officials, the "Making Work Pay" tax credit is reduced by the amount of any stimulus payments. The extent to which these individuals reduced their "Making Work Pay" tax credit for these stimulus benefit payments is not known.

| Case no. | Details   |
|----------|---|
|          | <ul style="list-style-type: none"> <li>• SSA's case file indicates that in July 2006 the beneficiary called SSA and stated that she did not want SSA to contact her employer for work review and that she would submit a Work Activity Report as soon as possible. SSA records do not indicate that the beneficiary provided this report.</li> <li>• In November 2006, SSA notified the beneficiary that based on wages earned in 2005 her benefits would be increased.</li> <li>• In November 2007, SSA notified the beneficiary that based on wages earned in 2006 her benefits would be increased.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly benefit. The beneficiary also received a \$250 economic stimulus payment.</li> <li>• The beneficiary stated that she is working full-time and receiving disability benefits.</li> <li>• According to SSA officials, SSA has subsequently suspended the beneficiary's disability benefit payments for failure to cooperate in a medical disability review in the latter part of 2009.</li> <li>• The beneficiary resides in a house that is currently listed for sale at about \$1,800,000.</li> </ul>   |
| 2        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a home improvement contractor located in Maryland. The estimated overpayment could not be determined.</li> <li>• SSA approved DI payments starting in 1998 for back disorders and vascular disease.</li> <li>• The beneficiary owns an active construction business registered with DOT.</li> <li>• The beneficiary stated that his home improvement business includes drywall, roofing, carpeting, siding, decks, kitchens, and any other home improvement work. We found evidence of fraud by the beneficiary, who stated that he puts everything in his wife's name because he is on disability for heart problems.</li> <li>• The beneficiary stated that he always has at least two jobs going on at a time and that he has three trucks.</li> <li>• Our investigators observed the beneficiary driving a pickup truck with ladders attached to the roof. The Maryland Home Improvement Contractor license displayed on the side of another truck on the property is listed under the wife's name.</li> <li>• In April 2006, SSA notified the beneficiary that the State of Maryland will pay the Medicare medical insurance premium beginning in February 2006.</li> <li>• In June 2009, SSA notified the beneficiary that the agency had received his application for help with Medicare prescription drug plan costs. The application asked "Have you worked in 2008 or 2009?" SSA records indicate that the beneficiary answered "No." Later in the month, SSA notified the beneficiary that he is automatically eligible for extra help with Medicare prescription drug plan costs because he receives DI, Medicaid, or participates in the Medicare Savings Program.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,072. SSA also sent the beneficiary the \$250 economic stimulus payment.</li> <li>• According to SSA officials, no work continuing disability review has been conducted for this beneficiary and no earnings information exists in his records.</li> </ul> |
| 3        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a laundry worker for the Department of Veterans Affairs who worked in West Virginia. The estimated overpayment was about \$39,000.</li> <li>• The beneficiary began work as a textile care production worker, earning around \$35,000 per year in April 2007.</li> <li>• The position description for the job states that continuous standing, walking, stretching, stooping, bending, and arduous labor are required in the position. The shift supervisor stated that the beneficiary performs all the regular functions of the job and that no special accommodations have been arranged for his work.</li> <li>• SSA approved DI payments starting in August 2007 for back disorders and mood disorders. At the time of SSA approval for DI, the beneficiary was working full-time at the Department of Veterans Affairs; thus the beneficiary was never entitled to any disability payments.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be</li> </ul>  |

| Case no. | Details  |
|----------|--|
|          | <p>increased.</p> <ul style="list-style-type: none"> <li>• In July 2009, SSA notified the beneficiary that he was entitled to Medicare hospital and medical insurance beginning in August 2009.</li> <li>• The beneficiary stated that SSA said he could work even though he was on disability. The beneficiary stated that he did not know that he was supposed to report to SSA when he began working.</li> <li>• As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,236. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• SSA officials stated that the recipient returned to work prior to his eligibility start date and was therefore not eligible for any SSA disability benefits.</li> </ul>  |
| 4        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a legal assistant for SSA who worked in Arizona. The estimated overpayment was about \$11,000.</li> <li>• SSA approved DI payments starting in 2003 for affective/mood disorders and osteoarthritis.</li> <li>• The beneficiary began working for SSA in the third quarter of 2007.</li> <li>• According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased.</li> <li>• The SSA Office of Inspector General opened an investigation of the employee after we informed the agency of her employment status.</li> <li>• According to SSA officials, SSA disability programs do not have access to SSA's payroll records to determine whether their employees are receiving disability payments and thus should be evaluated for eligibility.</li> <li>• SSA sent the beneficiary a \$250 economic stimulus payment.</li> <li>• SSA officials stated that a work continuing disability review for the recipient is pending.</li> </ul> |
| 5        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a mail clerk for the U.S. Postal Service who worked in Pennsylvania. The estimated overpayment was about \$19,000.</li> <li>• SSA approved DI payments starting in 2006 for a brain tumor.</li> <li>• The beneficiary stated that she returned to work in 2007.</li> <li>• The beneficiary stated that around July 2009 she received a statement from SSA that the agency had found out about her working and that her benefits were to be terminated. SSA stated that she would have to repay about \$19,000 in benefits.</li> <li>• The beneficiary stated that she agreed to repay \$100 per month by check and that she will likely die before paying back the full debt.</li> <li>• We found evidence of fraud when the beneficiary stated that she knew she was supposed to notify SSA of her work but that she did not because she needed the money.</li> <li>• SSA sent the beneficiary a \$250 economic stimulus payment.</li> </ul>   |

Source: GAO.

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## Recommendations for Executive Action

In our report, we recommend that the Commissioner of Social Security take the following two actions to improve the agency's processes:

- Evaluate the feasibility (including consideration of any costs and operational and system modifications) of incorporating the AERO process to identify individuals who have returned to work.
- Evaluate the feasibility of periodically matching SSA disability beneficiaries and recipients to federal payroll data. Such matches would provide SSA with more timely data to help SSA systematically and more effectively identify federal employees who are likely to incur overpayments.

In written comments on the draft of the report, SSA agreed with our recommendations, saying that it will evaluate using the AERO process and review the efficacy of matching federal salary payment records with SSA disability files of DI beneficiaries and SSI recipients. SSA stated that their existing processes already identified certain cases as overpayments. SSA does have a process in place that likely identifies some abuses that are occurring; our report identifies 6 cases where SSA identified the disability overpayment and sent notification letters to the individuals indicating that they would have to repay the debts. However we do not believe that identifying fraudulent or improper payments after dollars have been disbursed is an effective internal control. Our work across the government has shown that once fraudulent or improper payments are made, the government is likely to only recover pennies on the dollar. Preventive controls are the most efficient and effective. SSA also expressed concern that the overall message of our report is misleading and in some cases factually incorrect. We believe our report accurately describes the cases and our methodology.

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Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

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## Contacts

For further information regarding this testimony, please contact Gregory D. Kutz at (202) 512-6722 or [kutzg@gao.gov](mailto:kutzg@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.



**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS**

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

**UNITED STATES SENATE**

**AUGUST 4, 2010**

**STATEMENT  
OF  
MICHAEL J. ASTRUE  
COMMISSIONER  
SOCIAL SECURITY ADMINISTRATION**

**Introduction**

Chairman Levin, Ranking Member Coburn, and Members of the Subcommittee:

Thank you for this opportunity to discuss issues raised in the recent Government Accountability Office (GAO) report, "Cases of Federal Employees and Transportation Drivers and Owners who Fraudulently and/or Improperly Received Social Security Administration (SSA) Disability Payments." As you know, fighting fraud and improper payments are one of the Administration's government-wide financial management efforts. At SSA, we are committed to continuing to improve our use of cost-effective methods to prevent, detect, and recover disability overpayments, as well as reduce fraud, and we appreciate your interest in this very important subject.

We recognize that the American public depends on us to be outstanding stewards of the Social Security trust funds. We pay benefits to about 58 million beneficiaries who deserve to receive timely and accurate benefits, and in nearly all of the cases we do. We believe the incidence of fraud in our programs is exceptionally low, and we take great pains to train our field employees in fraud detection and enforcement.

We work diligently to implement complex laws designed to encourage disability beneficiaries to return to work. Accordingly, receipt of both a disability benefit and earnings is not necessarily fraud, and it is not even necessarily an improper payment. A beneficiary who has reported earnings creates a complex question we must answer – namely, are they still eligible for the benefit – and not conclusive proof for a termination of benefits. The complexity increases exponentially when a person receives benefits under the different return-to-work rules of our disability programs.

Earlier this decade, we encountered several years where the Congress appropriated less than the President's Budget, and our administrative infrastructure contracted to a point where we could not fulfill all of our responsibilities. During this time period, hearing backlogs rose dramatically and program integrity work declined dramatically. Since 2007, we have made significant progress toward reversing these trends, but we still lack the resources to perform all of our program integrity work on a timely basis. GAO itself stated in 2008 that our "service... is still being provided, and mostly in a timely way, but it is extremely fragile."<sup>1</sup> Despite rising workloads, contrary to the impression created by the GAO report, we have been steadily increasing our program integrity efforts and that increase has been accelerating with the support we have received from Congress and President Obama.

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<sup>1</sup> Statement of Barbara D. Bovbjerg, Director, Education, Workforce, and Income Security, GAO, before the Senate Committee on Finance on May 8, 2008.

The most significant data we have to identify potential improper payments are Internal Revenue Service (IRS) wage reports. Annual reporting combined with the complexity of reviewing these cases create a long lag period between lapsed entitlement to benefits and enforcement. Quarterly wage reporting would improve the timeliness of our program integrity efforts and thus reduce the size of overpayments.

### **Program Background**

The Social Security insurance programs, which include Old Age, Survivors, and Disability Insurance (OASDI) benefits, protect against loss of earnings due to retirement, death, and disability. Social Security benefits are financed through payroll taxes paid by workers, their employers, and self-employed persons. The Supplemental Security Income (SSI) program, funded by general revenues, assists aged, blind, and disabled persons with limited means.

During fiscal years (FY) 2005-2009, we paid over \$2.4 trillion to retirement and survivors beneficiaries. In that same period, we paid \$490.6 billion to Social Security Disability Insurance (SSDI) beneficiaries and \$218.6 billion to SSI recipients.

The definition of disability for SSDI and SSI is unique—we pay only those claimants who are totally disabled and cannot work in any job in the national economy. We do not award SSDI or SSI for partial or short-term disability.

Under the Social Security Act (Act) and our regulations, we find claimants disabled only if:

- They cannot perform their previous work;
- They cannot adjust to other work because of their medical condition(s); and
- Their disability has lasted or is expected to last for at least one year or to result in death.

Furthermore, under the Act, we cannot terminate a beneficiary's benefits for medical reasons unless we can document medical improvement.

In FY 2009, 99.63 percent of all OASDI payments were free of an overpayment, and 99.91 percent were free of an underpayment. In the SSI program, 91.6 percent of all payments were free of an overpayment, and 98.4 percent were free of an underpayment. While our SSI overpayment rate has improved over the last year and a half, it is still short of an appropriate level.

**Issues Raised in the GAO Report**

An improper payment does not equal fraud. In its recent report, GAO began its investigation by identifying about 1,500 Federal employees, 62,000 individuals with commercial driver's licenses (CDL), and 7,900 individuals who registered a commercial vehicle company—all of whom were disability beneficiaries or recipients whose cases had indicators of potential improper payments. Of the 20 cases that GAO reviewed, GAO investigated only one problematic CDL case and only one problematic case involving a commercial vehicle company. GAO did not conclusively prove fraud in any of these 20 cases and has referred only 5 of these cases to our Office of the Inspector General (OIG).

We do not intend to minimize the importance of the issues raised in this investigation, and we take our stewardship responsibilities very seriously. Nevertheless, the results apply to only these 20 non-representative cases, and after reviewing these 20 cases, we found that we had already detected overpayments for half and believe that we would have identified the remaining cases through subsequent enforcement activities if earnings were reported on the W-2 or as self-employment income to the IRS.

We also continue to work collaboratively to combat fraud with the SSA OIG, which has the agency lead for investigating cases of possible fraud. The OIG is set up to efficiently conduct independent and objective audits, evaluations, and investigations, to promote the integrity and security of our programs and operations and protect them against fraud, waste, and abuse.

We have worked with the SSA OIG to establish investigative units—called Cooperative Disability Investigations (CDI) units—across the country. Each unit consists of an OIG special agent, state or local law enforcement investigators, state disability determination services (DDS) examiners/analysts, and SSA management support specialists or similar SSA employees. This initiative provides greater investigative support to the agency so that we may make decisions on disability claims that are more accurate and timely by resolving questions of possible fraud. The CDI program's process enhances the potential for identifying and preventing overpayments, as well as denying fraudulent initial applications, by fostering an exchange of information between disability decision-makers and the CDI units. The program also ensures timely investigation and the termination of benefits when we detect fraud during continuing disability reviews (CDR), which are medical or work reevaluations to determine if beneficiaries are still disabled.

CDI units also investigate and support criminal prosecution of doctors, lawyers, and other third parties who commit fraud against the SSDI and SSI disability programs. The results of these investigations may also be presented to Federal and state prosecutors for



consideration of criminal or civil prosecution, as well as to the OIG's Office of Counsel for the possible imposition of civil monetary penalties.

There are currently 21 CDI units operating throughout the United States, with a 22<sup>nd</sup> unit expected to be operational before the end of this fiscal year. According to our OIG, since the program's inception in FY 1998 through March 2010, CDI efforts nationwide have resulted in \$1.4 billion in savings to our disability programs and \$891 million in savings to non-SSA programs, such as Medicare and Medicaid.<sup>2</sup>

These monetary achievements are the result of CDI units opening more than 29,900 cases and developing evidence to support approximately 23,100 actions, resulting in a denial, suspension, or termination of disability benefits.

In the area of data matching, the GAO investigators declined to recommend matching with CDL and commercial vehicle company registrant data, and we similarly question the value of using these data to evaluate continuing eligibility for disability when the data do not have specific income records associated with them.

We are already going ahead with matching our agency's payroll records with disability data so we can get the information earlier than from the enforcement process, and we are considering other GAO recommendations to see if we can improve our processes.

We see some promise in the investigators' recommendation that we evaluate the feasibility of coordinating our automated process for re-computing monthly disability payments with our enforcement process to identify people who have returned to work. This is a systems functionality that we once had and may reinstitute along with other improvements. For example, we are developing a statistical predictive model that identifies beneficiaries who are at risk of high earnings-related overpayments and plan a field test of this model later this month. This predictive model may help us prioritize our scarce staff resources for our enforcement activities, and we believe that it has the potential to reduce the already small number and amount of work-related overpayments.

To bolster the quality and timeliness of our beneficiary-reported data, we are accelerating our work on two projects that make beneficiaries' reporting of their wages easier and more efficient. We plan to extend the existing SSI telephone wage reporting process to SSDI beneficiaries. Individuals will be able to report their earnings by telephone either by touch-tone or voice recognition. We also plan to establish a website for disability beneficiaries to report their wages easily and promptly. Based on the results of electronic reporting in the SSI program, we may have similar success in reducing SSDI overpayments due to late reporting of earnings.

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<sup>2</sup> OIG Spring 2010 Semi-Annual Report to Congress and SSA FY 2009 Performance and Accountability Report, Inspector General Statement on the SSA's Major Management and Performance Challenges.

In many cases, the complexity of our disability programs leads to overpayments. We strive for continued improvement in this area within the limits permitted by the programmatic structures.

While we understand the focus of today's hearing is on disability overpayments and fraud, we know from experience that we cannot artificially segregate our stewardship and service missions. We use the same limited resources to complete these workloads. These resources include highly trained employees, as well as their time and the physical and technological capacity needed to complete their work.

The President's commitment to implement a multi-year plan to increase Government-wide program integrity efforts will bolster our stewardship activities. The President's FY 2011 Budget includes \$38 million in additional resources for two major program integrity efforts for our agency: CDRs and SSI redeterminations, which are reviews of non-medical factors of eligibility such as income and resources. This FY 2011 level represents a 5 percent increase over the FY 2010 level. In addition, the budget includes funding for us to continue nationwide rollout of our Access to Financial Institutions (AFI) project, which automates the verification of SSI applicants and recipients' assets held by banks.

In FY 2011, we plan to conduct 360,000 full medical CDRs and 2,422,000 redeterminations. We estimate that every dollar spent on medical CDRs yields at least \$10 in lifetime Social Security, Medicare and Medicaid savings, and every dollar spent on SSI redeterminations yields more than \$8 in Social Security and Medicaid savings over 10 years. If we meet our FY 2011 program integrity goals for medical CDRs and redeterminations, the estimated program savings over the 10-year period through FY 2020 amount to more than \$7 billion, including Medicare and Medicaid savings.

#### **Understanding the Causes of Disability Overpayments**

While the leading cause of SSI overpayments is an unreported increase in financial accounts and wages, the leading cause of overpayments in the SSDI program is error in determining whether a beneficiary is engaging in substantial gainful activity (SGA). Beneficiaries who fail to report work activities are a significant source of errors in calculating SGA. SGA refers to the performance of significant physical or mental activities in work for pay or profit or in work of a type generally performed for pay or profit. SGA is a test for determining both initial and continuing eligibility for SSDI. In all initial claims situations, if a claimant's work is over SGA, then the claimant does not meet the definition of disability and does not receive benefits.

Generally, countable earnings averaging over \$1,000 a month (in 2010) demonstrate the ability to perform SGA. For blind persons, countable earnings averaging over \$1,640 a

month (in 2010) generally demonstrate SGA for SSDI. These amounts, however, are subject to modifications and exceptions based on statutory incentives designed to encourage work.

Some of the work incentives that we may apply to reduce countable earnings for SSDI are:

- **Trial Work Period (TWP)**— Allows beneficiaries to test their ability to work without affecting benefits. The TWP ends when the beneficiary completes 9 months with earnings over the threshold (\$720 in 2010) within a rolling 60-month period.
- **Extended Period of Eligibility**— During the first 36 months after the TWP, if a beneficiary for whom we have suspended benefits stops working and earning over the SGA earnings limit, his or her benefits are reinstated without a new application. Entitlement ends with the first month of SGA after the 36-month period.
- **Impairment Related Work Expenses**— Out-of-pocket costs for items and services related to a disability that are needed in order to work (also applies to SSI disability).
- **Subsidies and Special Conditions**— Supports received on the job that result in the beneficiary receiving more pay than the actual value of the services performed.
- **Unsuccessful Work Attempts**— Disregarded earnings from work attempts of six months or less that were stopped due to the beneficiary's impairment.

After an SSDI beneficiary completes the TWP and continues to work, we conduct a work CDR to determine if the beneficiary's earnings preclude entitlement to payment. We may also receive either a report of earnings or an earnings alert for unreported earnings. Our Continuing Disability Review Enforcement Operation (CDREO) uses IRS earnings data to identify possible work CDRs for SSDI beneficiaries. In all cases, we must provide due process prior to taking any adverse action. Throughout the course of case development, disability beneficiaries may ask us at any time to suspend their benefits if they wish to avoid an overpayment.

For SSI disability, SGA is a test to determine only initial eligibility rather than continuing eligibility. When an SSI disability recipient returns to work, we do not apply SGA. We count income and earnings (after allowable deductions) to determine the monthly payment amount. The countable income is subtracted from the Federal benefit rate (\$674 in 2010) to arrive at the payment.<sup>3</sup> An SSI disability recipient may go in and out of pay status based on countable income. An SSI recipient whose payment is reduced to zero

<sup>3</sup> State thresholds are determined by SSA under a formula using the SSI Federal benefit rate, state supplementary payment amount (if any), and the per capita Medicaid expenditure in the state. If an individual exceeds the state threshold, we look at his or her actual medical expenses to determine continuing Medicaid eligibility.

because of earnings will retain eligibility to SSI and to Medicaid, if the disabling condition continues and earnings are below a state threshold amount. State thresholds vary between an annual low of \$23,981 in Alabama to a high of \$54,815 in Connecticut.

Some of the work incentives that reduce countable earnings for SSI disability are:

- **Blind Work Expenses**— For people receiving SSI based on blindness, we exclude *any* earnings used to meet expenses needed to earn that income, which do not need to be related to blindness.
- **Student Earned Income Exclusion**— We do not count up to \$1,640 (in 2010) of monthly earnings (up to a yearly maximum of \$6,600 in 2010) of a student under age 22.
- **Plan to Achieve Self-Support**— We do not count any earnings an SSI recipient sets aside toward an approved plan.

Given the complexity of the statutes for our disability programs, some overpayments are unavoidable. The complexity of our work incentive provisions is exacerbated when a beneficiary receives both SSDI and SSI. A simple example of this complexity for such a beneficiary is the fact that the amount of earnings that we count for the same month is often different in each program. For SSDI the earnings are counted for the month that they are earned; for SSI they are counted for the month that they are paid. We are currently exploring ways to simplify our disability programs to reduce overpayments.

#### **Detecting and Preventing Disability Overpayments**

“Curbing Improper Payments” is the first objective under our 2008-2013 Agency Strategic Plan Goal to “Preserve the Public’s Trust in Our Programs.” Our primary tools for achieving this objective are CDRs and SSI redeterminations. A work CDR is a review of eligibility requirements regarding an SSDI beneficiary’s earnings or ability to work. Work CDRs are triggered by reports of earnings from beneficiaries or third parties, systems alerts, and earnings posted to a beneficiary’s record. We process work CDRs in field offices and processing centers. We use a program called eWork to automate work CDR processing. eWork collects necessary data from mainframe databases, prepares forms, notices, and work report receipts, incorporates policy and decision logic, and adjusts benefits.

The Act requires us to conduct medical CDRs on a periodic basis to evaluate whether disabled beneficiaries and recipients continue to meet the medical criteria. We also conduct medical CDRs when we receive a report of medical improvement from a disability beneficiary or recipient or third party. We complete medical CDRs in two ways. The medical CDR process uses a statistical modeling system that uses data from our records to determine the likelihood that a disabled beneficiary or recipient has improved medically. If the statistical modeling system indicates that the beneficiary or

recipient has a high likelihood of medical improvement, we send the case to the state DDS for a full medical review. We send the remaining beneficiaries and recipients a questionnaire requesting updates on their impairments, medical treatment, and work activities. If the completed mailer indicates that there has been potential medical improvement, we send the case to the DDS for a full medical review. Otherwise, we decide based on the mailer response not to initiate a full medical CDR, and we schedule the case for a future review.

We evaluate all of the non-medical factors of SSI eligibility by conducting SSI redeterminations. There are two types of SSI redeterminations: scheduled and unscheduled. We target the most error-prone cases each year using a statistical model. We conduct unscheduled redeterminations when recipients report, or when we discover, certain changes in circumstances that may affect their SSI payment eligibility or amount, such as a change in living arrangements.

Our payment accuracy rate with respect to SSI overpayments has been a challenge, and one we have worked hard to address. In FY 2008, our SSI overpayment accuracy rate was 89.7 percent. To improve our performance, we increased the volume of redeterminations we conducted in FY 2009. Largely as a result of this increase, the overpayment accuracy for 2009 has risen to 91.6 percent, which is a statistically significant improvement over the 2008 rate. Our success in improving the SSI overpayment accuracy rate is encouraging news and demonstrates the value of adequate funding of redeterminations.

In addition to CDRs and redeterminations, we have developed other program integrity initiatives where we use cost-effective means to help us prevent disability overpayments. We continue to roll out our AFI project, which assists us in identifying disclosed and undisclosed financial accounts in the SSI program. The AFI project currently operates in California, New York, and New Jersey. We plan to expand AFI to 14 more states in September, and plan to continue expansion until it is national. We project lifetime program savings of over \$100 million in FY 2011 and up to \$1 billion in lifetime program savings each year when AFI is fully implemented.

To make it simpler and more convenient for SSI recipients to report wages, last year we implemented an automated monthly telephone wage reporting process. The process uses both touch-tone and voice recognition telephone technology to collect wage reports. Our software automatically enters the wage data into the SSI system, which is much more efficient than if the recipient visited a field office and we manually entered the report into our system. Moreover, telephone wage reports are highly accurate. Based upon a previous study, the dollar accuracy of reported wages using telephone wage reporting was 92.2 percent, compared to the 75.5 percent dollar accuracy of the wage estimates received through other means. We promote use of the telephone wage reporting system,

and we provide SSI recipients with training on how to use the system. We are also looking at offering on-line reporting systems.

Technology improves accuracy in multiple ways. Electronic data matching provides a foundation for our ongoing program integrity work, including prevention of disability overpayments. Data matching allows us to obtain information quickly and inexpensively and helps us to automate the process of adjusting or terminating benefits. When deciding what data matches to pursue, we always consider the cost-benefit analysis of those activities, pursuing only those that produce a high return on investment.

Our most important Federal data-matching initiative is our match with IRS annual wage data through CDREO. We also receive income data from IRS for other purposes. For example, we obtain IRS 1099 data for SSI recipients. Cases with IRS amounts over certain tolerance levels are sent to the field offices for review. Some of these cases result in overpayments or ineligibility due to under-reported income. We also use Modified Adjusted Gross Income (MAGI) from IRS to determine Medicare Part B premiums for beneficiaries. The Medicare Modernization Act of 2003 created tiered premiums based on the beneficiary's MAGI. The MAGI matching operation helps us compute Medicare premiums correctly.

Using our Electronic Death Registration (EDR) process, states electronically transmit death information to us over the Internet so that we quickly receive death notices from the states for OASDI beneficiaries and SSI recipients. As of today, 29 states and jurisdictions have implemented EDR and 9 more states are expected to implement EDR in 2010 or 2011. We currently receive over 36 percent of all death records through EDR. Obtaining these records electronically allows us to update our records more quickly than the traditional reporting process and prevents improper payments after an individual's death.

We also work with correctional facilities to identify beneficiaries who are incarcerated and should not receive benefits. We currently have agreements with the institutions that house 99 percent of all prisoners in the country. Since 1997, we have suspended benefit payments to approximately 811,000 inmates.

#### **Recovering Disability Overpayments**

In addition to our efforts to prevent and detect improper payments, we also aggressively seek to collect debt through a wide-variety of methods. We use both internal and external collection tools to collect what we are owed. The technique we use most widely and most successfully for beneficiaries who continue on the disability rolls is benefit withholding. Subject to statutory constraints, we can withhold some or all of an individual's benefits. We collected over \$2 billion last fiscal year using this method.

When we cannot recover a debt on our own, we turn to authorized external debt collection tools. These tools include:

- Tax Refund Offset;
- Administrative Offset (collection of a delinquent debt from a Federal payment other than a tax refund);
- Credit Bureau Reporting;
- Administrative Wage Garnishment;
- Non-Entitled Debtors Program (a system that facilitates recovery of debt owed by non-beneficiaries, such as representative payees); and
- Federal Salary Offset.

As systems resources permit, we will enhance our debt collection by using offset of state payments, including state tax refunds. We are also making plans to charge administrative fees and interest on debt.

While we do not collect all of the overpayments we make in our programs, we make every effort to recover as much as we can. In FY 2009, we recovered over \$3 billion in program debt and, over a five-year period (FYs 2005-2009), we collected \$12.75 billion at an administrative cost of \$.06 for every dollar collected.

In providing us with these debt collection tools, Congress recognized that maximum debt collection is not the only consideration. Rather, by the terms of the Act, we must balance our stewardship responsibilities with compassionate recognition of our beneficiaries' individual situations. For example, we are limited to withholding no more than 10 percent of an SSI recipient's monthly income to recover an overpayment. Reducing the already minimal SSI payment any further would leave the recipient without enough money to meet basic living expenses. Similarly, the Act prohibits recovery of overpayments from any beneficiary who is without fault if the recovery would defeat the purpose of the programs or be against equity and good conscience. In determining if the beneficiary is without fault, we are statutorily required to consider the person's physical, mental, education, or linguistic limitations.

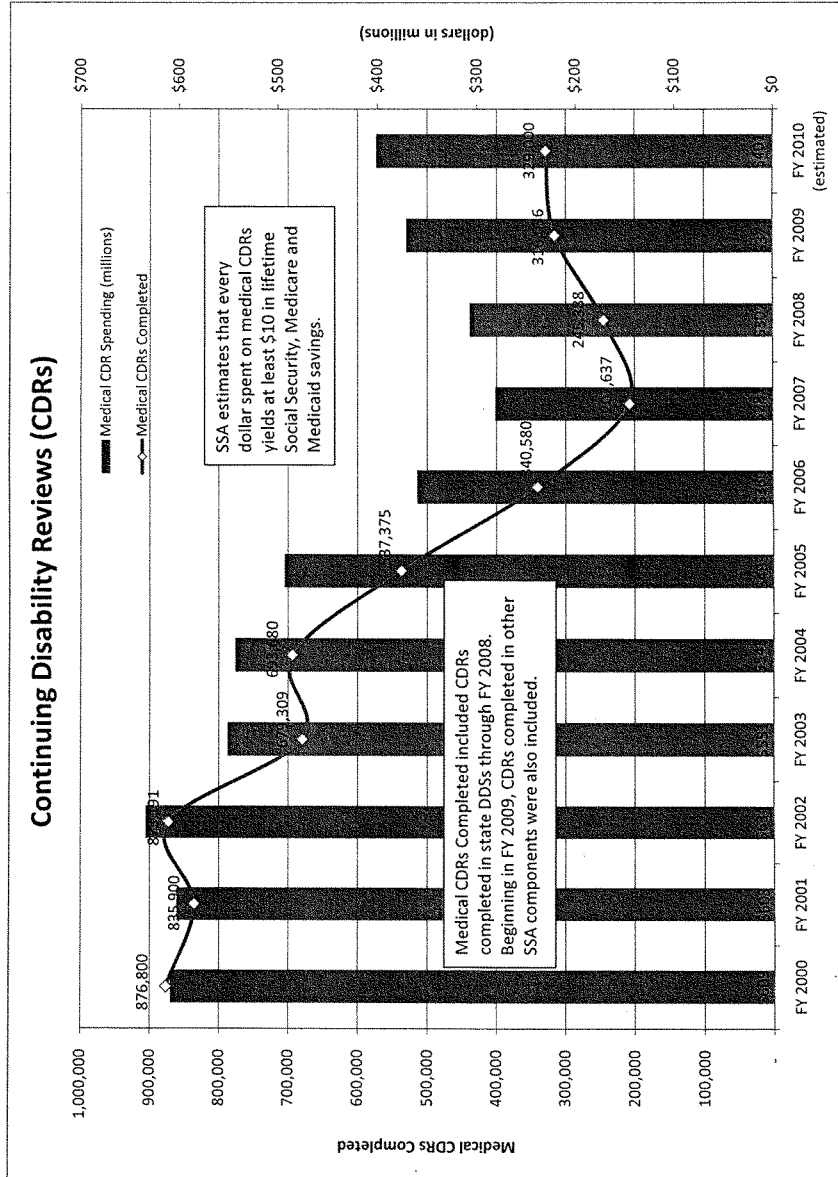
Although we make every effort to preserve taxpayer dollars, we administer programs that Congress explicitly designed to provide assistance over revenue maximization. Through these restrictions, Congress has struck a balance between maximum collection and recognition of people in economic distress. We implement our programs with both principles in mind.

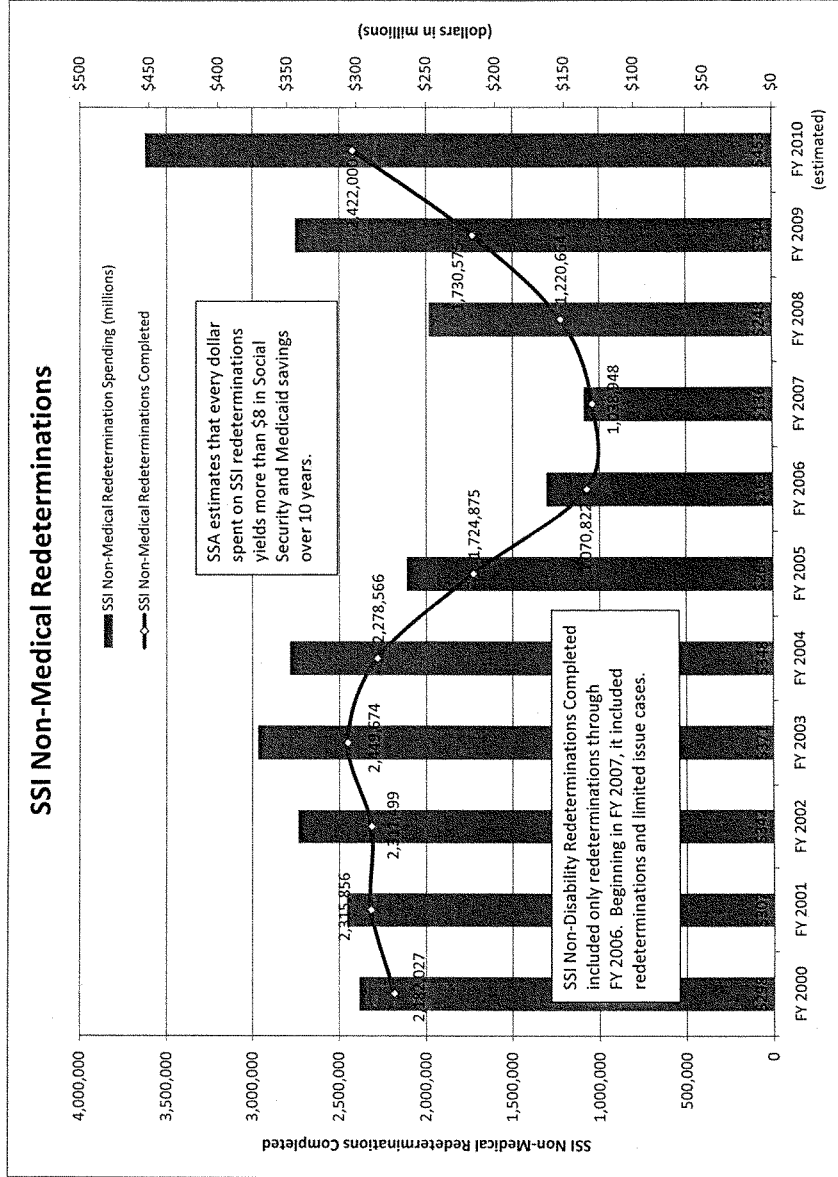
**Conclusion**

The programs we administer demand stewardship that is worthy of their promise of economic security from generation to generation. We are firmly committed to sound management practices, including accurate metrics for evaluating our programs' integrity, and following up with appropriate enforcement and recovery actions. We know the continued success of our programs is inextricably linked to the public's trust in them. Properly managing our resources and program dollars is critical to that success. Equally important to our success is Congress providing us with adequate and sustained funding to carry out our work.

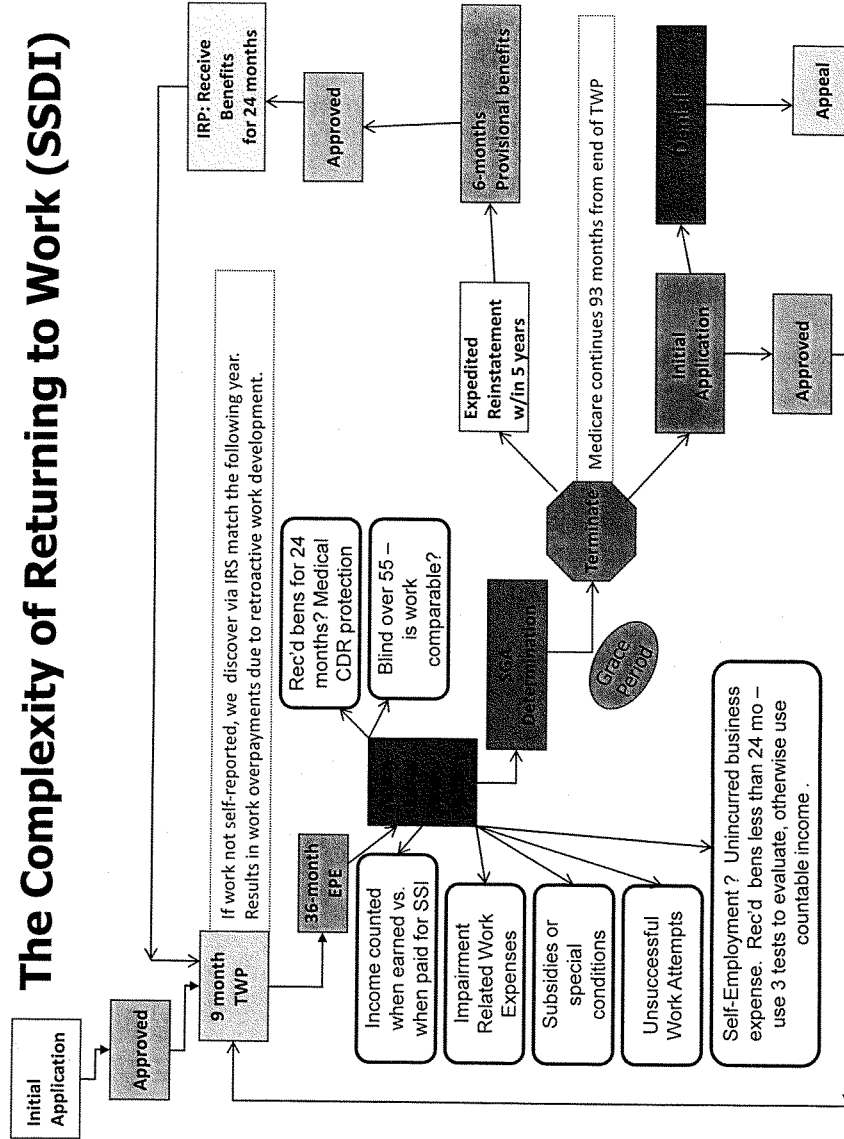
Full funding under the President's FY 2011 Budget will allow us to implement the Administration's plan to increase program integrity over the next several years. For this reason, we ask that you support the critical funding that President Obama has requested for us.



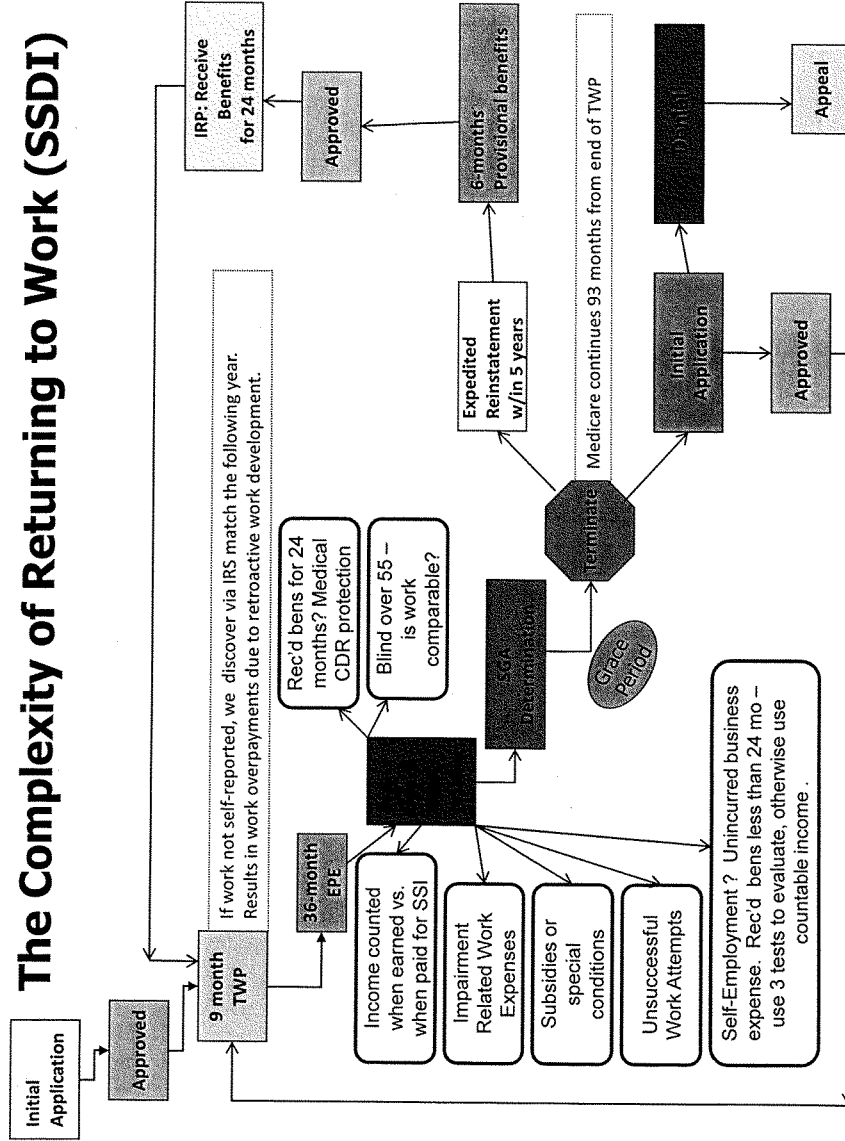




# The Complexity of Returning to Work (SSDI)



# The Complexity of Returning to Work (SSDI)



June 2010

**SOCIAL SECURITY  
ADMINISTRATION**

**Cases of Federal  
Employees and  
Transportation  
Drivers and Owners  
Who Fraudulently  
and/or Improperly  
Received SSA  
Disability Payments**



GAO-10-444

Permanent Subcommittee on Investigations  
**EXHIBIT #1**



Highlights of GAO-10-444, a report to congressional requesters

### Why GAO Did This Study

The Social Security Administration (SSA) administers two of the nation's largest cash benefits programs for people with disabilities: the Social Security Disability Insurance (DI) program, which provides benefits to workers with disabilities and their family members, and the Supplemental Security Income (SSI) program, which provides income for individuals with disabilities who have limited income and resources. In 2008, SSA provided about \$142 billion in financial benefits for these two programs. As part of the American Recovery and Reinvestment Act of 2009, the federal government also paid \$250 to each SSA recipient, such as DI beneficiaries, SSI recipients, and old-age retirement beneficiaries.

GAO was asked to (1) determine whether federal employees and commercial drivers and company owners may be improperly receiving disability benefits and (2) develop case study examples of individuals who fraudulently and/or improperly receive these benefits. To do this, GAO compared DI and SSI benefit data to civilian payroll records of certain federal agencies and carrier/driver records from the Department of Transportation (DOT) and 12 selected states. GAO also interviewed SSA disability beneficiaries and recipients.

### What GAO Recommends

GAO makes two recommendations for SSA to detect and prevent fraudulent and improper payments. SSA agreed with our recommendations, but disagreed with some facts presented.

View GAO-10-444 or key components. For more information, contact Gregory Kutz at (202) 512-6722 or kutzg@gao.gov.

June 2010

## SOCIAL SECURITY ADMINISTRATION

### Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments

### What GAO Found

GAO analysis of SSA and federal salary data found that there are indications that about 1,500 federal civilian employees may have improperly received benefits. In addition, GAO obtained data from 12 selected states and found that 62,000 individuals received or had renewed commercial driver's licenses after SSA determined that the individuals met the federal requirements for full disability benefits. Under DOT regulations, these individuals' eligibility must be medically certified every 2 years. Lastly, GAO found about 7,900 individuals with registered transportation businesses who were receiving SSA disability benefits. SSA regulations allow certain recipients to work and still receive their disability benefits. Thus, each case would require an investigation to determine whether there were fraudulent payments, improper payments, or both. The GAO analyses provide an indicator of potentially improper and fraudulent activity related to SSA benefits for federal employees, commercial drivers, and registrants of commercial vehicle companies. SSA currently does not perform a federal payroll or DOT records match to identify individuals improperly receiving benefits.

GAO nonrepresentatively selected and investigated 20 examples of individuals who improperly and in some cases fraudulently received disability payments. The following table describes 3 of these cases.

Examples of Fraudulent or Improper Disability Benefits

| Job performed                                       | Estimated overpayment | State | Case details   |
|---|-----------------------|-------|--|
| Screener for Transportation Safety Administration   | \$108,000             | CA    | SSA approved disability benefits in 1995 for mood disorders. Recipient began federal employment in 2003. For several years, SSA notified recipient that the disability benefits will increase based on the wages earned in the prior year. |
| Home improvement contractor                         | Cannot be determined  | MD    | SSA approved disability benefits in 1998 for vascular disease. Recipient admitted fraud to GAO, noting that the company is operating under the spouse's name because he is on disability.  |
| Office assistant for Social Security Administration | \$11,000              | AZ    | SSA approved disability benefits in 2003 for mood disorders. Although recipient began working for SSA in 2007, SSA had no information on the employment in the SSA disability file.  |

Source: GAO.

For these 20 cases, SSA did not have the processes to effectively prevent improper and/or fraudulent payments. To see video clips of three individuals working at their federal jobs, see <http://www.gao.gov/products/GAO-10-444>. GAO identified several issues arising from the investigations. For example, SSA continued to improperly pay individuals who informed SSA of their employment. Using a process called Automated Earnings Reappraisal Operations (AERO), SSA examined the earnings for several individuals and automatically increased these individuals' disability payments because of raises in salary from their federal employment. SSA officials stated that they currently do not use AERO to identify individuals who have returned to work. In addition, 18 individuals received \$250 stimulus payments while they were improperly receiving SSA disability payments.

United States Government Accountability Office

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**Abbreviations**

|       |  |
|-------|--|
| AERO  | Automated Earnings Reappraisal Operations    |
| CDL   | commercial driver's license                  |
| CDLIS | Commercial Driver License Information System |
| CDR   | continuing disability review                 |
| DFAS  | Defense Finance and Accounting Service       |
| DI    | Disability Insurance                         |
| DOD   | Department of Defense                        |
| DOT   | Department of Transportation                 |
| EPE   | extended period of eligibility               |
| IRS   | Internal Revenue Service                     |
| OIG   | Office of Inspector General                  |
| SSA   | Social Security Administration               |
| SGA   | substantial gainful activity                 |
| SSI   | Supplemental Security Income                 |

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United States Government Accountability Office  
Washington, DC 20548

June 25, 2010

The Honorable Thomas R. Carper  
Chairman  
The Honorable John McCain  
Ranking Member  
Subcommittee on Federal Financial Management, Government  
Information, Federal Services, and International Security  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Tom Coburn  
United States Senate

The Social Security Administration (SSA) administers two of the nation's largest cash benefit programs for people with disabilities: the Disability Insurance (DI) program,<sup>1</sup> which provides benefits to workers with disabilities and their family members, and the Supplemental Security Income (SSI) program, which provides income for aged, blind, or persons with disabilities, and limited income and resources. In 2008, the DI program provided about \$104 billion in financial benefits to approximately 9 million beneficiaries,<sup>2</sup> and the SSI program provided about \$38 billion in financial benefits to approximately 7.5 million recipients.<sup>3</sup>

An individual is considered eligible for disability benefits under Social Security's regulations if he or she is unable to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment that (1) can be expected to result in death or (2) has lasted (or can be expected to last) for a continuous period of not less than

<sup>1</sup>To be eligible for DI benefits, individuals with disabilities must have a specified number of recent work credits under Social Security at the onset of medical impairment. Individuals may also be able to qualify based on the work record of a deceased spouse or of a parent who is deceased, retired, or eligible for disability benefits.

<sup>2</sup>The approximately 9 million DI beneficiaries include about 7 million eligible workers and about 2 million dependent spouses and children.

<sup>3</sup>The 7.5 million SSI recipients include 6.3 million recipients who are either blind or medically impaired and 1.2 million aged recipients.

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12 months.<sup>4</sup> For DI, individuals are engaged in SGA if they have earnings above \$940 per month in calendar year 2008.<sup>5</sup> DI also allows a 9-month trial work period to test a beneficiary's ability to resume employment.<sup>6</sup> After the 9-month trial work period, SSA beneficiaries are covered under an extended period of eligibility. This is a 36-month period in which SSA does not pay any benefit amounts (i.e., payments are suspended) if the beneficiary has earnings above the maximum SSA SGA threshold. If earnings are under SGA, the full benefit is paid. For SSI, every \$2 of earnings generally reduces the monthly benefit by \$1 after an \$85 monthly deductible.

As part of the American Recovery and Reinvestment Act of 2009 (Recovery Act), the federal government also recently paid DI beneficiaries and SSI recipients \$250 each to stimulate the economy.<sup>7</sup> Given the magnitude of these cash benefit payments, it is important for SSA to have effective fraud prevention controls in place to minimize fraudulent payments, improper payments, or both.

In this context, you asked us to determine whether federal workers, commercial drivers, and commercial vehicle company owners are fraudulently receiving disability benefits, improperly receiving such benefits, or both. Specifically, you asked us to (1) determine whether federal employees and commercial vehicle drivers and company owners may be improperly receiving disability benefits and (2) develop case study examples of individuals who fraudulently and/or improperly receive these benefits. We plan to conduct subsequent investigations to determine whether other employment-related databases indicate whether individuals

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<sup>4</sup>SGA is defined as work activity that involves significant physical or mental activities performed for pay or profit. SSA has established earnings guidelines as a basis for determining whether an individual is engaged in SGA.

<sup>5</sup>This threshold changes every year depending on changes in the wage index. For fiscal years 2007, 2008, and 2009 the earnings threshold for SGA was \$900, \$940, and \$980, respectively. A higher SGA threshold applies to blind beneficiaries.

<sup>6</sup>The trial work period is one of the provisions in the DI program intended to encourage beneficiaries to resume employment. Once the trial work period is completed, beneficiaries are generally ineligible for future DI benefits unless their earnings fall below the SGA level.

<sup>7</sup>Individuals who were eligible for DI or SSI benefits at any time during the months of November 2008, December 2008, or January 2009 were eligible for the onetime payment. To receive payment, a beneficiary's address must have been in one of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, or the Northern Mariana Islands.

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are fraudulently or improperly receiving disability benefits. In addition, because we did not systematically evaluate internal controls as part of this investigation, we plan to review such controls at that time.

To determine the number of individuals who are employed with the federal government and potentially receiving SSA disability benefits improperly, we matched the civilian payroll records from the Department of the Treasury, the U.S. Postal Service, and the Defense Finance and Accounting Service (DFAS) from October 2006 to December 2008 to the SSA disability files of DI beneficiaries and SSI recipients as of December 2008.<sup>8</sup> The scope of our investigation did not include Department of Defense (DOD) military personnel who were improperly receiving SSA disability benefits. To determine the number of commercial vehicle owners and commercial drivers who were likely receiving DI and SSI benefits improperly, we compared the Department of Transportation's (DOT) Motor Carrier Management Information System file and Commercial Driver License Information System (CDLIS) file to the SSA disability files of DI beneficiaries and SSI recipients. Since DOT's CDLIS file contains both active and inactive licenses, we also obtained data from a nonrepresentative selection of 12 states to identify individuals who maintain active commercial driver's licenses (CDL).<sup>9</sup>

To illustrate actual cases of fraudulent payments and/or improper payments from our overall analysis, we nonrepresentatively selected 20 cases that illustrate the types of fraudulent and improper activity we found in SSA disability programs. The 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the higher overpayment amounts, the types of employment, and the locations of employment. Because this is a nonrepresentative selection, the results of these 20 case investigations cannot be projected to other federal employees, commercial drivers, or commercial vehicle owners who received SSA disability

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<sup>8</sup>The Department of the Treasury is the central disbursing agency for most federal agency payroll centers. For example, federal salary payments that are processed by the Department of Agriculture's National Finance Center are paid through the Department of the Treasury. The U.S. Postal Service processes payments for postal employees. DFAS processes payments for Department of Defense employees and employees of certain other federal agencies.

<sup>9</sup>The 12 selected states were California, Florida, Illinois, Kentucky, Maryland, Michigan, Minnesota, Montana, Tennessee, Texas, Virginia, and Wisconsin. The 12 states were selected primarily based on the size of the licensed commercial driver population. These 12 selected states represented about 42 percent of all commercial driver's licenses contained in CDLIS.

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payments. To develop these cases, we interviewed, as appropriate, each beneficiary and the beneficiary's employer. We also reviewed relevant SSA case file documents and employer payroll records. We also videotaped employees who had improperly received benefits working at their places of employment. See <http://www.gao.gov/products/GAO-10-444>. Our case study investigations only focused on individuals who were improperly receiving SSA disability payments based on their employment information. Analyzing and identifying fraud based on fraudulent medical claims was beyond the scope of this investigation.

To determine the reliability of the SSA disability records, we interviewed officials responsible for SSA's databases. In addition, for the SSA disability records and the other databases used in our investigation, we performed electronic testing to determine the validity of specific data elements in the databases that we used to perform our work. Based on our discussions with agency officials and our own testing, we concluded that the data elements used for this report were sufficiently reliable for our purposes.

We conducted our audit and investigative work from September 2008 through June 2010. We conducted our audit work in accordance with U.S. generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives. We performed our investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

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## Background

SSA administers two federal programs under the Social Security Act that provide benefits to people with disabilities who are unable to work: The DI program provides cash benefits to workers with disabilities and their dependents based on their prior earnings. The SSI program provides benefits to the elderly and individuals with disabilities if they meet the statutory test of disability and have income and assets that fall below levels set by program guidelines.

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## Disability Insurance

The DI program was established in 1956 to provide monthly cash benefits to individuals who were unable to work because of severe long-term disability. SSA pays disability benefits to eligible individuals under Title II of the Social Security Act. An individual is considered eligible for disability

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benefits under the Social Security Act if he or she is unable to engage in any SGA because of a medically determinable impairment that (1) can be expected to result in death or (2) has lasted (or can be expected to last) for a continuous period of at least 12 months. To be eligible for benefits, individuals with disabilities must have a specified number of recent work credits under Social Security (specifically, working 5 out of the last 10 years or 20 quarters out of 40 quarters) at the onset of medical impairment. An individual may also be able to qualify based on the work record of a deceased spouse or of parent who is deceased, retired, or considered eligible for disability benefits, meaning one disability beneficiary can generate multiple monthly disability payments. Benefits are financed by payroll taxes paid into the Federal Disability Insurance Trust Fund by covered workers and their employers, based on each worker's earnings history. Individuals are engaged in SGA if they have earnings above \$940 per month in calendar year 2008 or \$980 per month in calendar year 2009.

SSA conducts work-related continuing disability reviews (CDR) to determine if beneficiaries are working at or above the SGA level. Each beneficiary is allowed a 9-month trial work period, during which the beneficiary is permitted to earn more than the SGA level without affecting his or her eligibility for benefits. The trial work period is one of several provisions in the DI program intended to encourage beneficiaries to resume employment. Once the trial work period is completed, beneficiaries are generally ineligible for future DI benefits unless their earnings fall below the SGA level during the 36-month extended period of eligibility (EPE). Work issue CDRs are triggered by several types of events, although most are generated by SSA's Continuing Disability Review Enforcement Operation. This process involves periodic computer matches between SSA's administrative data and Internal Revenue Service (IRS) wage data. Work CDRs can also be triggered by other events. For example, SSA requires beneficiaries to undergo periodic medical examinations to assess whether they continue to be considered eligible for benefits. During such reviews, SSA's staff sometimes discovers evidence that a beneficiary may be working and usually forwards the case to an SSA field office or program service center for earnings/work development. Additional events that may trigger a work CDR include reports from state vocational rehabilitation agencies, reports from other federal agencies, and anonymous tips. Finally, DI beneficiaries may voluntarily report their earnings to SSA by visiting an SSA field office or calling the agency's toll-free number. SSA had increased work-related CDRs from about 106,500 in fiscal year 2003 to about 175,600 in fiscal year 2006. However, the number of work CDRs has decreased slightly since 2006, and SSA projects that it will conduct about 174,200 work CDRs in fiscal year 2010.

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**Supplemental Security  
Income**

Created in 1972, the SSI program is a nationwide federal cash benefit program administered by SSA that provides a minimum level of income to financially needy individuals who are aged, blind, or considered eligible for benefits because of physical or mental impairments. Payments under the SSI program are paid under Title XVI of the Social Security Act and are funded from the government's General Fund, which is financed through tax payments from the American public. Individuals are not eligible for SSI payments for any period during which they have income or resources that exceed the allowable amounts established under the Social Security Act. In addition, relevant information will be verified from independent or collateral sources to ensure that such payments are correct and are only provided to eligible individuals. SSI recipients are required to report events and changes of circumstances that may affect their eligibility and payment amounts, including changes in income, resources, and living arrangements. SSI generally reduces the monthly benefit \$1 for every \$2 of monthly earnings after the first \$85.

SSA has implemented measures to help identify SSI recipients with excess income, excess resources, or both, such as periodically conducting redeterminations to verify whether recipients are still eligible for and receiving the correct SSI payments. A redetermination is a review of a recipient's nonmedical eligibility factors, such as income, resources, and living arrangements. There are two types of redeterminations: scheduled and unscheduled. Scheduled redeterminations are conducted periodically depending on the likelihood of payment error. Unscheduled redeterminations are conducted based on a report of change in a recipient's circumstances or if SSA otherwise learns about a change that may affect eligibility or payment amount.

SSA has deferred a significant number of SSI redeterminations since fiscal year 2003. Although SSA increased the number of SSI redeterminations in fiscal year 2009 above the 2008 level, the number of reviews remains significantly below the fiscal year 2003 level. Specifically, SSA conducted about 719,000 SSI redeterminations in fiscal year 2009, 30 percent fewer than it did in fiscal year 2003. However, if SSA completes the number of SSI redeterminations it is projecting for fiscal year 2010, it will be close to the fiscal year 2003 level.

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### Federal Employees, Commercial Drivers, and Commercial Vehicle Company Owners Received SSA Disability Benefits

Our overall analysis found thousands of federal employees, commercial drivers, and owners of commercial vehicle companies who were receiving Social Security disability benefits during fiscal year 2008. It is impossible to determine from data mining alone the extent to which beneficiaries improperly or fraudulently received disability payments. To adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances should be conducted. This evaluation would include contacting the beneficiary and the beneficiary's employer, obtaining corroborating evidence such as payroll data and other financial records, and evaluating the beneficiary's daily activities. Based on this evaluation, a determination can be made if the individual is entitled to continue to receive SSA disability payments or have such payments suspended. As such, our analysis provides an indicator of potentially improper or fraudulent activity related to federal employees, commercial drivers, and owners of commercial vehicle companies receiving SSA disability payments.<sup>10</sup> Our case studies, discussed later, confirmed some examples in which individuals received SSA disability payments that they were not entitled to receive.

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### Federal Employees Receiving SSA Disability Benefits

Our analysis of federal civilian salary data and SSA disability data found that about 7,000 individuals at selected agencies had been wage-earning employees for the federal government while receiving SSA disability benefits during fiscal year 2008. The exact number of individuals who may be improperly or fraudulently receiving SSA disability payments cannot be determined without detailed case investigations. Our analysis of federal salary data from October 2006 through December 2008 found that about 1,500 federal employees' records indicate that they may be improperly receiving payments.<sup>11</sup> The individuals were identified using the following criteria: (1) DI beneficiaries who received more than 12 months of federal salary payments above the maximum SSA earnings threshold for the DI

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<sup>10</sup>Federal disability programs, such as SSA's "Ticket to Work," encourage certain disability beneficiaries to work and still receive all or a portion of their disability benefits. In addition, from the beneficiary's income, SSA may exclude certain out-of-pocket work expenses (e.g., costs of car modifications or attendant care) from the calculation of the beneficiary's income. The beneficiary's salary may also include compensation for sick leave, which SSA also excludes from the calculation of the beneficiary's income. From our analysis of the data, it is impossible to determine the extent to which this population beyond our 20 cases was affected by these factors.

<sup>11</sup>The actual estimate of federal employees who may be improperly receiving benefits was 1,487.

program (e.g., \$940 per month for nonblind DI beneficiaries during calendar year 2008) after the start date of their disabilities<sup>12</sup> or (2) SSI recipients who received more than 2 months<sup>13</sup> of federal salary above the maximum SSA earnings threshold for the SSI program after the start date of their disabilities.<sup>14</sup> Based on their SSA benefit amounts, we estimate that these approximately 1,500 federal employees received about \$1.7 million of payments monthly.<sup>15,16</sup> Table 1 summarizes the types of SSA disability benefits for these 1,500 federal employees who are receiving disability benefits.

**Table 1: Summary of Federal Employees Receiving SSA Benefits by Type of SSA Disability Program**

| Disability program | Number of federal employee beneficiaries |
|--------------------|--|
| DI                 | 1,097                                    |
| SSI                | 306                                      |
| Concurrent DI/SSI  | 84                                       |
| <b>Total</b>       | <b>1,487</b>                             |

Source: GAO analysis of SSA disability data.

<sup>12</sup>After the 9-month trial work period, SSA beneficiaries are covered under an extended period of eligibility. This is a 36-month period in which SSA does not pay any benefit amounts if the beneficiary has earnings above the SSA earnings threshold for the DI program. If earnings are under SGA, the full benefit is paid.

<sup>13</sup>Although any monthly earnings greater than the maximum SSI earnings threshold are technically improper, to be conservative, we only considered the receipt of benefits by those employees who had over 2 months of monthly earnings greater than the maximum SSI threshold to be likely fraudulent or improper for our analysis.

<sup>14</sup>The maximum SSI monthly benefit for eligible individuals for 2009 was \$674. SSI reduces the monthly benefit \$1 for every \$2 of monthly earnings after the first \$85. As such, the maximum SSI earnings threshold for calendar year 2009 is \$1,433.

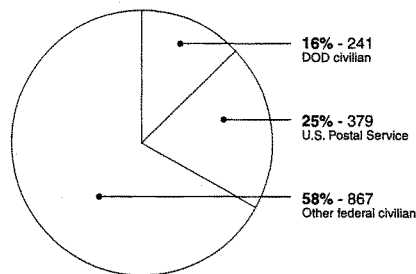
<sup>15</sup>This estimate was based on the sum of the December 2008 disability payments for the approximately 1,500 federal employees identified.

<sup>16</sup>Our estimate of federal employees with potential improper payment indicators is likely underestimated. It does not include salary payments that these individuals may have received outside of the federal government. Also, we had only the net pay amounts for federal employees disbursed by Department of the Treasury, not gross pay. For these employees the salary we used was reduced for deductions such as health insurance, income taxes, and other withholdings.



Figure 1 shows that 379 of the approximately 1,500 federal employees were U.S. Postal Service workers and 241 were DOD civilian employees. The remainder was other federal civilian employees.

**Figure 1: Summary of Federal Employees by Employer**



Source: GAO analysis of federal payroll data.

Note: Percentages do not add to 100 because of rounding.

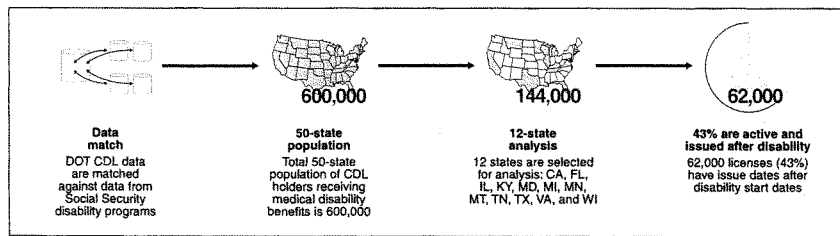
According to SSA officials, SSA currently does not obtain payroll records from the federal government to identify SSA disability beneficiaries or recipients who are currently working. SSA officials stated that they have not conducted a review to determine the feasibility of conducting such a match. However, SSA acknowledged that these payroll records may be helpful in more quickly identifying individuals who are working so that work CDRs could be performed to evaluate whether those individuals should have their disability payments suspended.

**Commercial Drivers and Transportation Business Registrants Receiving SSA Disability Benefits**

Our analysis of data from DOT on commercial drivers and from SSA on disability beneficiaries found that about 600,000 individuals had been issued CDLs and were receiving full Social Security disability benefits. The actual number of SSA disability beneficiaries with active CDLs cannot be determined for two reasons. First, states maintain the current status of

CDLs, not DOT.<sup>17</sup> Second, possession of a CDL does not necessarily indicate that the individual returned to work. Because federal regulations require interstate commercial drivers to be examined and certified by a licensed medical examiner to be able to physically drive a commercial vehicle once every 2 years, we selected a nonrepresentative selection of 12 states<sup>18</sup> to determine how many SSA disability beneficiaries had CDLs issued after their disabilities were determined by SSA. Of the 600,000 CDL holders receiving Social Security disability benefits, about 144,000 of these individuals were from our 12 selected states. As figure 2 shows, about 62,000 of these 144,000 individuals, or about 43 percent, had CDLs that were issued after SSA determined that the individuals met the federal requirements for full disability benefits. As a result, we consider the issuance of CDLs to be an indication that these individuals may no longer have serious medical conditions and may have returned to work.

**Figure 2: CDL Drivers in 12 Selected States Receiving Social Security Disability Benefits**



Sources: GAO (data), Art Explosion (graphics).

Our analysis of DOT data on commercial carriers found about 7,900 individuals who registered as transportation businesses<sup>19</sup> and also received

<sup>17</sup>The DOT data do not contain identifiers to indicate whether a license is currently active. It is an index system designed to ensure that drivers do not obtain CDLs from multiple states. As a result, DOT's database includes drivers with valid, suspended, revoked, or lapsed licenses.

<sup>18</sup>The states were chosen primarily based on size and availability of data.

<sup>19</sup>Each business is a registered motor carrier in DOT's Motor Carrier Management Information System with an active DOT number. For private motor carriers, there is no cost associated with maintaining an active listing.

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SSA disability benefits. The extent to which these business registrants are obtaining disability benefits fraudulently, improperly, or both is not known because each case must be investigated separately for such a determination to be reached. These companies may have gone out of business and not reported their closure to DOT, which would explain their registration. In addition, DI beneficiaries may have a passive interest in the business, which would not affect their eligibility for benefits. However, we believe that the registration of a business is an indicator that the individual could be actively engaged in the management of the company and gainfully employed, potentially disqualifying him or her from receiving either DI or SSI benefits. It also suggests that the individual's assets may exceed the SSI maximum for eligibility.

According to SSA officials, SSA currently does not obtain CDL or transportation businesses registrant records from DOT. SSA officials stated that these records do not have specific income records associated with them.

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### Examples of Individuals Receiving SSA Disability Benefits Fraudulently and/or Improperly

Based on our overall analysis above, we nonrepresentatively selected 20 examples of federal employees, commercial drivers, and registrants of commercial vehicle companies who received disability payments fraudulently and/or improperly. As mentioned earlier, the 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the higher overpayment amounts, the types of employment, and the locations of employment, and thus they cannot be projected to other federal employees, commercial drivers, or commercial vehicle owners who received SSA disability payments. In each case, SSA's internal controls did not prevent improper and fraudulent payments, and as a result, tens of thousands of dollars of overpayments were made to individuals for 18 of these 20 cases. In fact, in one case, we estimate that SSA improperly paid an individual over \$100,000 in disability benefits. For 10 of the 20 cases, SSA continued to pay these individuals their SSA disability benefits through October 2009 primarily because the agency had not yet identified their ineligibility for benefits. For the other cases, SSA has terminated the disability benefits and has negotiated repayment agreements for 2 of those cases.

Our investigations found that five individuals committed fraud in obtaining SSA disability benefits because they knowingly withheld employment

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information from SSA. Fraud is "a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment."<sup>20</sup> Although SSA instructions provided to beneficiaries require them to report their earnings to SSA in a timely manner to ensure that they remain eligible for benefits, several individuals knowingly did not notify SSA of their employment.

Our investigations also found that 11 individuals potentially committed fraud because these individuals likely withheld required employment information from SSA. Most of these individuals claimed that they reported their employment information to SSA. However, according to SSA officials, for all 11 individuals, SSA did not have any tangible documentation in its files that these individuals actually reported their employment status to SSA. SSA officials stated that their workers are required to document all contacts in their files and that these purported contacts regarding employment notifications were likely never made.

Finally, our investigations found four cases with no evidence of fraud but, rather, of administrative error. In these situations, the beneficiaries told our investigators that they reported their employment to SSA and SSA had evidence in its files that such contact did occur. Thus, we concluded that SSA made improper payments to these individuals because SSA was aware of the employment but continued to make disability payments to those individuals.

During our investigations of the 20 cases, we also noted the following:

- SSA has an automated process, called Automated Earnings Reappraisal Operations (AERO), that screens changes in an individual's earnings record and uses that information to compute changes in the monthly disability benefit payment.<sup>21</sup> However, SSA currently does not use AERO to identify individuals who return to work and alert SSA staff to review these individuals' records for possible suspension of disability payments. As a result, SSA increased the monthly disability benefits of

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<sup>20</sup>Black's Law Dictionary, 9th Edition (2009).

<sup>21</sup>AERO is a computer operation that reexamines an individual's earnings record to determine whether the beneficiary is due a recomputation to include earnings not previously considered in the monthly disability amount. If an increase is due, AERO processes a benefit change and notifies the beneficiary. If no increase is due, AERO does not send a notice. AERO is run twice for each earnings year, usually in late October and late March.

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several individuals based on the higher wages the individuals' current employers reported to the agency but did not properly suspend the payments to those individuals.

- Four individuals received additional disability benefits because they had dependent children living with them.
- One individual was hired by a federal agency during the required waiting period prior to becoming eligible for benefits. This individual also improperly received additional government medical assistance (i.e., Medicare) based on the SSA disability determination.<sup>24</sup>
- Certain individuals who claim that they are unable to immediately repay the disability benefits they improperly received can be put on long-term repayment plans that span years or decades. Although SSA has the authority to charge interest and penalties, SSA did not do so on these agreements. As a result, several individuals from our cases were placed in long-term, interest-free repayment plans for improperly accepting disability overpayments. For 1 of our 20 cases, SSA placed an individual on a repayment plan to repay approximately \$33,000 in overpayments through \$20 monthly installments. Based on this agreement, it will take over 130 years to repay this debt, exceeding the life expectancy for this individual.

For 18 of these 20 cases, the individuals also received \$250 stimulus checks as part of the Recovery Act while they were improperly receiving SSA disability payments. According to SSA officials, most of these individuals were entitled to and would receive the \$250 stimulus checks even if SSA had properly suspended the disability payments to them. Specifically, SSA officials stated that beneficiaries covered under the DI program would have been covered under EPE, which is a 36-month period in which SSA does not pay any benefit amounts (i.e., payments are suspended) if the beneficiary has earnings above the maximum SSA SGA threshold. According to SSA officials, all working beneficiaries covered by EPE received the \$250 stimulus check.

The Recovery Act states that these stimulus benefit payments should be provided to individuals who are entitled to DI benefit payments or are eligible for SSI cash benefits.<sup>25</sup> SSA stated that it did not seek a formal

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<sup>24</sup>For DI, beneficiaries can continue their Medicare coverage for up to 93 months after the end of the trial work period. For SSI, Medicaid coverage can continue as long as the earnings do not exceed the Medicaid income thresholds.

<sup>25</sup>Pub. L. No. 111-5 § 2201 (Feb. 17, 2009).

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legal determination as to whether individuals who had their payments suspended because of employment should receive these stimulus payments. In total, SSA paid about \$10.5 million in stimulus payments to approximately 42,000 individuals who were covered by EPE.<sup>24</sup> However, we believe that a question exists as to whether these payments were proper and believe that SSA should have at least sought a formal legal opinion before making the payments.

Table 2 highlights 10 of the 20 individuals we investigated. Table 3 in appendix I describes the other 10 individuals that we investigated. For 3 of these 20 cases, we videotaped the individuals who had improperly received disability benefits working at their federal government jobs. (See <http://www.gao.gov/products/GAO-10-444>.) In all 20 cases, we found that SSA had improperly paid the Social Security disability benefits.

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<sup>24</sup>According to SSA officials, the "Making Work Pay" tax credit is reduced by the amount of any stimulus payments. The extent to which these individuals reduced their "Making Work Pay" tax credit for these stimulus benefit payments is not known.

**Table 2: Case Studies 1 through 10 Showing That Federal Employees and Commercial Vehicle Company Owners Improperly or Fraudulently Received SSA Disability Benefits While Working**

| Case no. | Details  |
|----------|--|
| 1        | <ul style="list-style-type: none"> <li>• Based on our investigation, the beneficiary did not appear to have committed fraud but SSA made improper payments to the beneficiary.</li> <li>• The beneficiary was a Department of Justice attorney who worked in California. The estimated overpayment was about \$20,000.</li> <li>• SSA approved DI payments starting in January 2006 for chronic obstructive pulmonary disease.</li> <li>• In April 2007, SSA sent a letter to the beneficiary thanking him for contacting the agency to report his employment.</li> <li>• In May 2007, SSA notified the beneficiary that based on his employment the trial work period began in January 2007.</li> <li>• The beneficiary told our investigator that he contacted SSA by phone and by mail in January 2008 informing the agency that the trial work period was over and thus the benefit payments should cease.</li> <li>• In February 2008, SSA notified the beneficiary that "your disability has ended and you are not entitled to payments beginning in February 2008," but the monthly benefit payments continued.</li> <li>• In August 2008, SSA notified the beneficiary that "we paid you \$1,954 in February and we should have paid you \$0," but the monthly benefit payments continued.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his monthly benefits would be increased to \$1,967.</li> <li>• Beneficiary reached full retirement age in January 2009 and now receives monthly SSA retirement benefits.</li> <li>• At the time the beneficiary was receiving disability benefits, the beneficiary was generally making over \$6,000 monthly in federal salary.</li> <li>• According to SSA officials, SSA staff did complete a work CDR on the individual and determined that the disability payments should be suspended. SSA officials stated that in this case, SSA did not complete the manual steps to suspend the disability payments.</li> </ul> |

| Case no. | Details   |
|----------|---|
| 2        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a Transportation Safety Administration screener who worked in California. The estimated overpayment was about \$108,000.</li> <li>• SSA approved DI payments starting in 1995 for mood and anxiety disorders.</li> <li>• The beneficiary began full-time federal employment in 2003. From 2003 through 2008 her annual earnings were from \$36,000 to \$50,000.</li> <li>• SSA requested a Work Activity Report from the beneficiary in April 2005, but the beneficiary did not provide it.</li> <li>• In November 2005, SSA notified the beneficiary that based on wages earned in 2004 her benefits would be increased.</li> <li>• SSA's case file indicates that in July 2006 the beneficiary called SSA and stated that she did not want SSA to contact her employer for work review and that she would submit a Work Activity Report as soon as possible. SSA records do not indicate that the beneficiary provided this report.</li> <li>• In November 2006, SSA notified the beneficiary that based on wages earned in 2005 her benefits would be increased.</li> <li>• In November 2007, SSA notified the beneficiary that based on wages earned in 2006 her benefits would be increased.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly benefit. The beneficiary also received a \$250 economic stimulus payment.</li> <li>• The beneficiary stated that she is working full-time and receiving disability benefits.</li> <li>• According to SSA officials, SSA has subsequently suspended the beneficiary's disability benefit payments for failure to cooperate in a medical disability review in the latter part of 2009.</li> <li>• The beneficiary resides in a house that is currently listed for sale at about \$1,800,000.</li> </ul>  |
| 3        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a home improvement contractor located in Maryland. The estimated overpayment could not be determined.</li> <li>• SSA approved DI payments starting in 1998 for back disorders and vascular disease.</li> <li>• The beneficiary owns an active construction business registered with DOT.</li> <li>• The beneficiary stated that his home improvement business includes drywall, roofing, carpeting, siding, decks, kitchens, and any other home improvement work. We found evidence of fraud by the beneficiary, who stated that he puts everything in his wife's name because he is on disability for heart problems.</li> <li>• The beneficiary stated that he always has at least two jobs going on at a time and that he has three trucks.</li> <li>• Our investigators observed the beneficiary driving a pickup truck with ladders attached to the roof. The Maryland Home Improvement Contractor license displayed on the side of another truck on the property is listed under the wife's name.</li> <li>• In April 2006, SSA notified the beneficiary that the State of Maryland will pay the Medicare medical insurance premium beginning in February 2006.</li> <li>• In June 2009, SSA notified the beneficiary that the agency had received his application for help with Medicare prescription drug plan costs. The application asked "Have you worked in 2008 or 2009?" SSA records indicate that the beneficiary answered "No." Later in the month, SSA notified the beneficiary that he is automatically eligible for extra help with Medicare prescription drug plan costs because he receives DI, Medicaid, or participates in the Medicare Savings Program.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,072. SSA also sent the beneficiary the \$250 economic stimulus payment.</li> <li>• According to SSA officials, no work CDR has been conducted for this beneficiary and no earnings information exist in his records.</li> </ul> |



| Case no. | Details  |
|----------|--|
| 4        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was an X-ray technician for the Department of Veterans Affairs who worked in California. The estimated overpayment was about \$22,000.</li> <li>• SSA approved DI payments starting in 2002 for an infection.</li> <li>• SSA records indicate that the beneficiary returned to work in August 2007. In February 2008, SSA notified the beneficiary that based on his employment the trial work period began in August 2007.</li> <li>• In August 2008, SSA notified the beneficiary that "your disability has ended and you are not entitled to payments beginning in October 2008," but the monthly benefit payments continued.</li> <li>• The beneficiary stated that he wrote SSA when the trial work period was over and requested that the benefit payments stop. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• The beneficiary stated that he is holding the money that SSA keeps sending him because he knows that he will eventually have to pay it back.</li> <li>• As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,986. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• According to SSA records, a work CDR was conducted for the individual in May 2009. SSA officials confirmed that the overpayment amount was about \$22,000.</li> </ul>   |
| 5        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a laundry worker for the Department of Veterans Affairs who worked in West Virginia. The estimated overpayment was about \$39,000.</li> <li>• The beneficiary began work as a textile care production worker, earning around \$35,000 per year in April 2007.</li> <li>• The position description for the job states that continuous standing, walking, stretching, stooping, bending, and arduous labor are required in the position. The shift supervisor stated that the beneficiary performs all the regular functions of the job and that no special accommodations have been arranged for his work.</li> <li>• SSA approved DI payments starting in August 2007 for back disorders and mood disorders. At the time of SSA approval for DI, the beneficiary was working full-time at the Department of Veterans Affairs; thus the beneficiary was never entitled to any disability payments.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be increased.</li> <li>• In July 2009, SSA notified the beneficiary that he was entitled to Medicare hospital and medical insurance beginning in August 2009.</li> <li>• The beneficiary stated that SSA said he could work even though he was on disability. The beneficiary stated that he did not know that he was supposed to report to SSA when he began working.</li> <li>• As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,236. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• SSA officials stated that the recipient returned to work prior to his eligibility start date and was therefore not eligible for any SSA disability benefits.</li> </ul> |

| Case no. | Details  |
|----------|--|
| 6        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a letter carrier for the U.S. Postal Service who worked in Texas. The estimated overpayment was about \$27,000.</li> <li>• SSA approved DI payments starting in December 2006 for affective/mood disorders.</li> <li>• The beneficiary stated that she began work for the U.S. Postal Service in the summer of 2007, and that prior to that she worked for United Parcel Service.</li> <li>• In April 2007, SSA notified the beneficiary that based on wages earned in 2006 her benefits would be increased.</li> <li>• In November 2008, SSA notified the beneficiary that she was entitled to Medicare hospital and medical insurance beginning in December 2008.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased.</li> <li>• In August 2009, on the day of our interview, the beneficiary was terminated from the U.S. Postal Service for an incident between her and a customer.</li> <li>• According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,477. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• According to SSA officials, they have not conducted a work CDR for this individual.</li> </ul>  |
| 7        | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a truck company owner and driver located in Texas. The estimated overpayment could not be determined.</li> <li>• SSA approved DI payments starting in 1991 for disorders of the back.</li> <li>• DOT records show that the beneficiary applied for a Motor Carrier DOT number in May 2008, and that provisional authority had been granted in December 2007.</li> <li>• DOT's new entrant safety audit for the carrier in April 2008 stated that the company is a corporation owned and managed by the beneficiary, who was present for the audit. It also specified that the carrier had two drivers, two tractor trailers, and gross income of approximately \$84,000 through the end of that year. DOT identified the beneficiary as one of the drivers.</li> <li>• State records indicate that the corporation is a limited liability company and the beneficiary is the registered agent and manager.</li> <li>• The beneficiary stated that he oversees the business, that it steadily employs three drivers, and that he had recently fired a driver. He stated that his daughter does the scheduling and dispatching.</li> <li>• The beneficiary stated that he had an operation in the 1990s in which screws were put into his back and that he is on pain medication for life. DOT records indicate that he has a CDL and that he had two roadside inspections in 2008, in Florida and Texas, providing further evidence of SGA.</li> <li>• The beneficiary stated that the income from his business is reported to IRS.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly disability benefit of \$1,824. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• SSA conducted a work CDR for the recipient in January 2007. According to SSA, the individual owns a trucking company but does no work.</li> </ul> |

| Case no. | Details   |
|----------|---|
| 8        | <ul style="list-style-type: none"> <li>Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>The beneficiary was a legal assistant for SSA who worked in Arizona. The estimated overpayment was about \$11,000.</li> <li>SSA approved DI payments starting in 2003 for affective/mood disorders and osteoarthritis.</li> <li>The beneficiary began working for SSA in the third quarter of 2007.</li> <li>According to SSA records, the beneficiary did not contact the agency as required.</li> <li>In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased.</li> <li>The SSA Office of Inspector General opened an investigation of the employee after we informed the agency of her employment status.</li> <li>According to SSA officials, SSA disability programs do not have access to SSA's payroll records to determine whether their employees are receiving disability payments and thus should be evaluated for eligibility.</li> <li>SSA sent the beneficiary a \$250 economic stimulus payment.</li> <li>SSA officials stated that a work CDR for the recipient is pending.</li> </ul>   |
| 9        | <ul style="list-style-type: none"> <li>Our investigation found that the beneficiary committed fraud in obtaining SSA disability payments.</li> <li>The beneficiary was a mail clerk for the U.S. Postal Service who worked in Pennsylvania. The estimated overpayment was about \$19,000.</li> <li>SSA approved DI payments starting in 2006 for a brain tumor.</li> <li>The beneficiary stated that she returned to work in 2007.</li> <li>The beneficiary stated that around July 2009 she received a statement from SSA that the agency had found out about her working and that her benefits were to be terminated. SSA stated that she would have to repay about \$19,000 in benefits.</li> <li>The beneficiary stated that she agreed to repay \$100 per month by check and that she will likely die before paying back the full debt.</li> <li>We found evidence of fraud when the beneficiary stated that she knew she was supposed to notify SSA of her work but that she did not because she needed the money.</li> <li>SSA sent the beneficiary a \$250 economic stimulus payment.</li> </ul>  |
| 10       | <ul style="list-style-type: none"> <li>Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>The beneficiary was a letter carrier for the U.S. Postal Service who worked in Michigan. The estimated overpayment was about \$45,000.</li> <li>SSA approved DI payments starting in May 2004 for mood and personality disorders.</li> <li>SSA records indicate that the beneficiary returned to work in December 2004 and completed her trial work period in December 2005. However, her monthly payments continued through March 2007. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>SSA records indicate that 18 months later, in October 2008, her monthly payments resumed.</li> <li>The beneficiary stated that when the payments resumed in October 2008, she assumed that the rules had changed and she was eligible again.</li> <li>The beneficiary stated that she did not feel she should have to pay anything back to SSA, since she did what SSA wanted. The beneficiary also stated that she was upset that SSA is deducting Medicare premiums from her current payment, when she has good health care coverage from the U.S. Postal Service.</li> <li>The beneficiary stated that her condition does not keep her from working. As of October 2009, SSA continued to pay beneficiary a monthly benefit of \$1,358. SSA also sent beneficiary a \$250 economic stimulus payment.</li> <li>SSA records indicate that a repayment was made in 2008 for about \$37,000.</li> </ul> |

Source: GAO.

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Appendix I provides details on the other 10 cases we investigated. Appendix II provides a summary of the key attributes from our investigations of the 20 cases. We referred all 20 cases to SSA management for collection action. The SSA Office of Inspector General has been informed of the 5 cases that we believe committed fraud. We also referred the case involving the SSA employee to the SSA Office of Inspector General for investigation.

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### Conclusions

While it is important to encourage individuals with disabilities to return to work, SSA must also ensure that it has an effective system in place to maintain its program integrity. SSA has a stewardship responsibility to identify those individuals who have returned to work and are no longer eligible for benefits. Because of limited resources, SSA must effectively allocate its resources to identify such individuals. Federal payroll records and the AERO process are tools that SSA could utilize to timely initiate reviews and minimize improper and fraudulent payments.

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### Recommendations for Executive Action

To enhance SSA's ability to detect and prevent fraudulent and improper payments in its disability programs, we recommend that the Commissioner of Social Security take the following two actions to improve the agency's processes:

- Evaluate the feasibility (including consideration of any costs and operational and system modifications) of incorporating the AERO process to identify individuals who have returned to work.
- Evaluate the feasibility of periodically matching SSA disability beneficiaries and recipients to federal payroll data. Such matches would provide SSA with more timely data to help SSA systematically and more effectively identify federal employees who are likely to incur overpayments.

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### Agency Comments and Our Evaluation

We provided a draft of this report to SSA and DOT for comment. DOT stated that it did not have comments on the report. SSA's comments, along with our responses, are reprinted in appendix IV, and its technical comments were incorporated throughout the report as appropriate.

SSA agreed with all our recommendations. SSA stated that it will evaluate the feasibility of using the AERO process. In addition, SSA stated that it will review the efficacy of matching federal salary payment records with SSA disability files of DI beneficiaries and SSI recipients. We encourage

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SSA to follow through on these recommendations. SSA also expressed concern that the overall message of our report is misleading and in some cases factually incorrect. We believe our report accurately describes the cases and our methodology.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to interested congressional committees, the Commissioner of Social Security, and the Secretary of Transportation. The report also will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6722 or [kutzg@gao.gov](mailto:kutzg@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.



Gregory D. Kutz  
Managing Director  
Forensic Audits and Special Investigations

## Appendix I: Examples of Individuals Receiving SSA Disability Benefits Fraudulently and/or Improperly

This appendix presents summary information on fraudulent and improper payments associated with 10 of our 20 case studies. Table 3 shows the remaining case studies that we audited and investigated. As with the 10 cases discussed in the body of this report, the Social Security Administration (SSA) did not prevent improper payment of Social Security disability benefits to these individuals. We referred all 20 cases to SSA management for collection action. The SSA Office of Inspector General has been informed of the 5 cases that we believe committed fraud. We also referred the case involving the SSA employee to the SSA Office of Inspector General for investigation.

**Table 3: Case Studies 11 through 20 Showing That Federal Employees and Commercial Vehicle Company Owners Improperly or Fraudulently Received SSA Disability Benefits While Working**

| Case no. | Details   |
|----------|---|
| 11       | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a mail handler for the U.S. Postal Service who worked in Texas. The estimated overpayment was about \$53,000.</li> <li>• The beneficiary stated that he suffered a stroke in February 2006. Based on this disability, SSA began making Disability Insurance (DI) benefit payments in August 2006.</li> <li>• The beneficiary returned to work in September 2006. He stated that at that time he verbally notified SSA that he had resumed employment. The beneficiary stated that he also informed SSA that he returned to work at the end of 2007. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• SSA records indicate that for 2007 and 2008 the beneficiary earned from \$70,000 to \$80,000.</li> <li>• The beneficiary was still working full-time and receiving a \$1,168 monthly benefit in August 2009.</li> <li>• The beneficiary stated that his child also receives a monthly benefit based on his claim. SSA records indicate that the child's monthly benefit is around \$400.</li> <li>• SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• The beneficiary stated that he is ready to pay back any overpayments.</li> <li>• SSA is in the process of reviewing this case.</li> </ul> |

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| Case no. | Details  |
|----------|--|
| 12       | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary worked in inventory management for the U.S. Mint in California. The estimated overpayment was about \$36,000.</li> <li>• SSA approved DI payments starting in 2004 for skin cancer and an infection.</li> <li>• SSA records indicate that the beneficiary returned to work in April 2007.</li> <li>• The beneficiary stated that when the 9-month trial work period ended, he wrote SSA requesting that the agency stop the payments, but the monthly benefit payment continued. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• In July 2008, SSA notified the beneficiary that since substantial work had been performed, his eligibility for disability benefits had ended. However, the monthly payments never stopped.</li> <li>• The beneficiary generally made about \$4,500 in net monthly salary at the time that he was improperly receiving disability benefits.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his DI benefits would be increased.</li> <li>• As of October 2009, SSA continued to send the beneficiary a monthly benefit payment of \$1,507. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• According to SSA officials, SSA staff did complete a work continuing disability review (CDR) on the individual and determined that the disability payments should be suspended. SSA officials stated that in this case, SSA did not complete the manual steps to suspend the disability payments.</li> </ul>   |
| 13       | <ul style="list-style-type: none"> <li>• Based on our investigation, the beneficiary did not appear to have committed fraud but SSA made improper payments to the beneficiary.</li> <li>• The beneficiary was an administrative specialist for the Small Business Administration who worked in Virginia. The estimated overpayment was about \$12,000.</li> <li>• SSA approved DI payments starting in 1996 for multiple infections.</li> <li>• The beneficiary stated that he returned to work full-time in November 2006, and that he notified SSA by both telephone and e-mail in January 2007 of his full-time employment. SSA records indicate that the beneficiary reported full-time wages beginning in December 2006.</li> <li>• The beneficiary stated that about 6 months after his initial notification, he again contacted SSA and sent the agency copies of his pay stubs.</li> <li>• In August 2007, SSA sent a letter to the beneficiary acknowledging receipt of information to support eligibility for payments. The letter acknowledged that the beneficiary reported full-time wages beginning in December 2006.</li> <li>• In November 2007, SSA notified the beneficiary that based on wages earned in 2006 his benefits would be increased.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be increased.</li> <li>• The beneficiary stated that after 2 years of full-time work, he again contacted SSA and implored the agency to stop paying him because he knew something was not right and that he would have to return the money.</li> <li>• In February 2009, SSA notified the beneficiary that he was no longer entitled to payments beginning in October 2007. SSA stated that because it did not stop the payments until February 2009, the beneficiary owed over \$12,000 in overpayment of benefits.</li> <li>• SSA also sent the beneficiary a \$250 economic stimulus payment despite SSA records showing that the beneficiary was ineligible since October 2007.</li> <li>• According to SSA officials, the individual is in a repayment plan for \$100 a month.</li> </ul> |

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| Case no. | Details   |
|----------|---|
| 14       | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a psychology aide for the Department of Veterans Affairs who worked in Florida. The estimated overpayment was about \$33,000.</li> <li>• SSA approved DI payments starting in 1996 for muscular dystrophy.</li> <li>• The beneficiary began federal employment in 2007, earning from \$31,000 to \$42,000 per year.</li> <li>• The beneficiary stated that he notified SSA about his return to work through the 1-800 number a month after he returned to work, a month after that, then a third time about 4 months after starting work. The beneficiary stated that SSA told him that it would be noted in the system that he had called. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• In September 2008, SSA notified the beneficiary that "your disability has ended and you are not entitled to payments." The notice stated that the trial work period ended in September 1998, 10 years prior.</li> <li>• In November 2008, SSA notified the beneficiary that based on the wages he earned in 2007, it would be increasing his benefits. The agency also noted that it would send a payment of \$4,478 on or about December 3, 2008, that would include the new regular monthly benefit, plus the difference between what SSA actually paid in 2008 and what it should have paid according to the wage increase.</li> <li>• In January 2009, SSA notified the beneficiary that it had paid him \$32,858 too much in benefits. SSA stated that he should refund this overpayment within 30 days. SSA placed the beneficiary in a repayment plan for \$20 per month.</li> <li>• The beneficiary stated that he requested a waiver of the overpayment amount and is awaiting SSA's response.</li> </ul>  |
| 15       | <ul style="list-style-type: none"> <li>• Based on our investigation, the recipient did not appear to have committed fraud but SSA made improper payments to the recipient.</li> <li>• The recipient was a mail clerk for the U.S. Postal Service who worked in Washington, D.C. The estimated overpayment was about \$16,000.</li> <li>• SSA approved Supplemental Security Income (SSI) payments starting in 2003 for affective/mood disorders and anxiety disorders.</li> <li>• U.S. Postal Service records indicate that the recipient began full-time work in November 2004. From 2005 through 2008, her annual earnings were from \$39,000 to \$47,000.</li> <li>• In February 2007, SSA notified the recipient that "because of your income, you are not eligible to receive SSI payments for January 2005 on." The notice stated that SSA would stop the payments beginning in March 2007.</li> <li>• In March 2007, SSA notified the recipient of the overpayment of about \$8,000 in SSI benefits. The overpayment happened from February 2006 through February 2007.</li> <li>• SSA records show that SSI payments resumed in November 2007 for several months. SSA withheld 10 percent of the monthly payment and applied it to the overpayment balance.</li> <li>• SSA records show that in March 2008, the recipient called to report that she started working last month and that she wanted SSA to stop her SSI benefits. The records show that she did not want to provide the name of her employer, but stated that she was earning about \$1,000 a month and wanted her benefits cut off.</li> <li>• In November 2008, SSA notified the recipient that starting in January 2009 the benefit due was being raised to \$674 a month. The recipient then received couple of months of disability benefits.</li> <li>• U.S. Postal Service records indicate that the recipient retired in August 2009.</li> <li>• As of October 2009, SSA continued to pay the recipient a monthly benefit. SSA also sent the recipient a \$250 economic stimulus payment.</li> <li>• According to SSA officials, SSA subsequently suspended the recipient's disability benefit payments for failure to cooperate.</li> </ul> |



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| Case no. | Details  |
|----------|--|
| 16       | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• Beneficiary was a human resources specialist for the Defense Logistics Agency who worked in Ohio. The estimated overpayment was about \$25,000.</li> <li>• SSA approved DI payments starting in 2002 for muscular disorders.</li> <li>• The beneficiary stated that she returned to work in March 2005 and that she notified SSA about her return to work via telephone. The beneficiary stated that she called SSA again in December 2005 and January 2006 and requested that her benefit payments stop. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• SSA records indicate that the benefit payments did stop after January 2006. However, SSA started the payments again in August 2007, before the payments were eventually stopped in March 2009.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 her benefits would be increased.</li> <li>• SSA records indicate that benefit payments were made through February 2009.</li> <li>• The beneficiary stated that no one from SSA has ever contacted her asking for repayment.</li> <li>• SSA sent the beneficiary a \$250 economic stimulus payment.</li> </ul>  |
| 17       | <ul style="list-style-type: none"> <li>• Based on our investigation, the beneficiary did not appear to have committed fraud but SSA made improper payments to the beneficiary.</li> <li>• The beneficiary was a mail clerk for the U.S. Postal Service who worked in Ohio. The estimated overpayment was about \$21,000.</li> <li>• SSA approved DI payments starting in 2003 for back disorders.</li> <li>• The beneficiary stated that she returned to work in June 2007 and called the SSA 1-800 number to inform the agency of her return to work.</li> <li>• The beneficiary received a notice from SSA in September 2007, stating that June 2007 was the first month of the trial work period. The notice also stated that SSA had scheduled the claim for review in February 2008 since it appeared that the ninth month of the trial work period would end at that time.</li> <li>• The beneficiary stated that in February 2008, she received a letter from SSA stating that her disability payments would be terminated, but the monthly benefit payments continued.</li> <li>• The beneficiary stated that after 2 to 3 months, she called SSA again and requested that the payments be stopped.</li> <li>• The beneficiary stated that she has not been notified by SSA of any overpayment, and that she is segregating the payments from her regular funds so she will be able to pay the debt.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,334. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> <li>• According to SSA officials, the beneficiary has recently paid about \$21,000 to SSA for the full overpayment amount.</li> </ul> |

**Appendix I: Examples of Individuals  
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| Case no. | Details   |
|----------|---|
| 18       | <ul style="list-style-type: none"> <li>• Our investigation found that the beneficiary potentially committed fraud in obtaining SSA disability payments.</li> <li>• The beneficiary was a mail clerk for the U.S. Postal Service who worked in New York. The estimated overpayment was about \$58,000.</li> <li>• SSA approved DI payments starting in 2003 for back disorders.</li> <li>• The beneficiary stated that he returned to work in November 2005, and that shortly thereafter he visited a local SSA office to notify the agency of his employment. The beneficiary stated that about a year later he again went in person to the local SSA office to discuss terminating his benefits, but the benefits continued. According to SSA records, the beneficiary did not contact the agency as required.</li> <li>• In November 2006, SSA notified the beneficiary that based on wages earned in 2005 his benefits would be increased.</li> <li>• In November 2007, SSA notified the beneficiary that based on wages earned in 2006 his benefits would be increased.</li> <li>• In November 2008, SSA notified the beneficiary that based on wages earned in 2007 his benefits would be increased.</li> <li>• As of October 2009, SSA continued to pay the beneficiary a monthly benefit of \$1,775. SSA also sent the beneficiary a \$250 economic stimulus payment.</li> </ul>   |
| 19       | <ul style="list-style-type: none"> <li>• Our investigation found that the recipient potentially committed fraud in obtaining SSA disability payments.</li> <li>• The recipient was a nursing assistant for the Department of Veterans Affairs who worked in Texas. The estimated overpayment was about \$14,000.</li> <li>• SSA approved SSI payments starting in 2002 for a benign brain tumor.</li> <li>• SSA records show that recipient returned to work in October 2006. The recipient started full-time federal employment in November 2007.</li> <li>• The recipient stated that he kept SSA informed of all the changes required to be reported, such as a change of address and work status. He said that he used the SSA 1-800 telephone number to report these changes, but was not asked to provide actual dollar earnings. SSA officials stated that their records indicated that he contacted SSA about the change in address but not about his work status, thus not providing the required disclosure to SSA.</li> <li>• SSA sent the recipient benefit payments of \$449 until June 2009. SSA also sent the recipient a \$250 economic stimulus payment.</li> <li>• In June 2009, SSA notified the recipient of the \$14,000 overpayment of SSI benefits from October 2006 through June 2009.</li> <li>• The recipient stated that he really thought it was his money to use, and that making the repayments is a hardship for him.</li> <li>• According to SSA officials, the recipient is currently repaying SSA \$200 per month.</li> </ul> |

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| Case no. | Details   |
|----------|---|
| 20       | <ul style="list-style-type: none"> <li>• Our investigation found that the recipient potentially committed fraud in obtaining SSA disability payments.</li> <li>• The recipient was a clerk for the Internal Revenue Service (IRS) who worked in Texas. The estimated overpayment was about \$11,000.</li> <li>• SSA approved SSI payments starting in 1991 for late effects of polio.</li> <li>• The recipient stated that she began working for IRS on a part-time basis in 2000, and every year notified SSA that she was working.</li> <li>• In May 2005, SSA notified the recipient that it had overpaid her \$4,400 in SSI benefits. The notice stated that to collect the overpayment, SSA would withhold \$25 per month from her ongoing SSI payments. The notice stated that she will resume receiving the full regular monthly payment in the year 2020.</li> <li>• The recipient stated that she transitioned to full-time permanent status in September 2008, and at that time she informed SSA of her employment status. According to SSA records, the recipient did not contact the agency as required.</li> <li>• In July 2009, SSA notified the recipient of a \$6,800 overpayment of SSI benefits for the period of February 2008 through July 2009. The notice stated that this amount is in addition to the prior overpayment of \$4,400.</li> <li>• SSA sent the recipient a \$250 economic stimulus payment.</li> <li>• According to SSA officials, a work CDR was conducted and the estimated overpayment was about \$11,000.</li> </ul> |

Source: GAO.

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## Appendix II: Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Who Fraudulently and/or Improperly Received Benefits While Working

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Our investigations detailed examples of 20 federal employees, commercial drivers, and owners of commercial vehicle companies who fraudulently and/or improperly received disability payments. For the 20 cases, our investigations found the following:

- For six cases, SSA eventually identified the disability overpayment and sent notification letters to the individuals indicating that they would have to repay the debts.
- For 10 cases, the individuals were continuing to receive disability benefits as of October 2009.
- For 14 cases, the individuals claimed to have notified SSA that they had returned to work or that it should terminate the disability benefits because they were no longer eligible because of employment income. However, for only 4 of these 14 cases did SSA have indications in its records that the individuals notified SSA of the return to work or requested termination of disability benefits.
- For 10 cases, SSA improperly increased the benefit amounts of the disability payments because the individuals had increases in the reported wages on which the disability benefit payments are based.
- For 18 cases, SSA sent the SSA beneficiaries and recipients the \$250 economic stimulus check.
- For five cases, we believe that there is sufficient evidence that the beneficiaries committed fraud to obtain or continue receiving Social Security disability payments.<sup>1</sup> For each of these five cases, we concluded that the individual withheld employment information from SSA to obtain or continue receiving disability payments.

Table 4 provides these attributes for each selected case that we investigated.

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<sup>1</sup>For 11 other cases, we believe there may have been fraud committed by these individuals to continue receiving disability payments. For the most part, these are situations where the individuals claimed to have reported their employment to SSA but SSA had no record of this contact in its files.

Appendix II: Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Who Fraudulently and/or Improperly Received Benefits While Working

Table 4: Attributes of Selected Cases of SSA Disability Beneficiaries and Recipients Improperly Receiving Benefits While Working

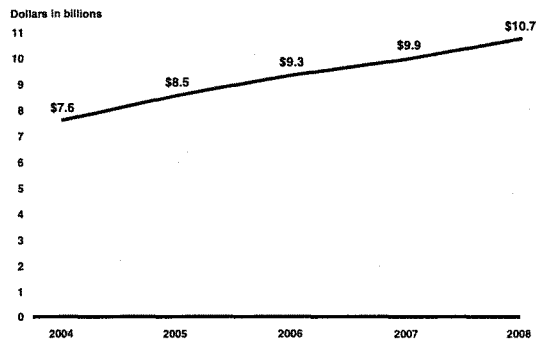
|              | SSA sent overpayment notification letter | Individual continued to receive disability benefits as of October 2009 | Individual claimed to have notified SSA | SSA records have indications that individual notified SSA | SSA increased disability benefits based on reported wages | SSA sent \$250 economic stimulus check to individual receiving disability payments | Individual likely committed fraud |
|--------------|--|--|---|---|---|--|-----------------------------------|
| Case 1       | ✓  |  | ✓                                       | ✓   | ✓   |  |                                   |
| Case 2       |  |  | ✓                                       |   | ✓   | ✓  | ✓                                 |
| Case 3       |  | ✓  |   |   |   | ✓  | ✓                                 |
| Case 4       |  |  | ✓                                       |   |   | ✓  |                                   |
| Case 5       |  | ✓  |   |   | ✓   | ✓  | ✓                                 |
| Case 6       |  | ✓  |   |   | ✓   | ✓  |                                   |
| Case 7       |  | ✓  |   |   |   | ✓  | ✓                                 |
| Case 8       |  |  |   |   | ✓   | ✓  |                                   |
| Case 9       |  |  |   |   |   | ✓  | ✓                                 |
| Case 10      |  | ✓  | ✓                                       |   |   | ✓  |                                   |
| Case 11      |  | ✓  | ✓                                       |   |   | ✓  |                                   |
| Case 12      |  | ✓  | ✓                                       |   | ✓   | ✓  |                                   |
| Case 13      | ✓  |  | ✓                                       | ✓   | ✓   | ✓  |                                   |
| Case 14      | ✓  |  | ✓                                       |   | ✓   |  |                                   |
| Case 15      | ✓  | ✓  | ✓                                       | ✓   |   | ✓  |                                   |
| Case 16      |  |  | ✓                                       |   | ✓   | ✓  |                                   |
| Case 17      |  | ✓  | ✓                                       | ✓   |   | ✓  |                                   |
| Case 18      |  | ✓  | ✓                                       |   | ✓   |  |                                   |
| Case 19      | ✓  |  | ✓                                       |   |   | ✓  |                                   |
| Case 20      | ✓  |  | ✓                                       |   |   | ✓  |                                   |
| <b>Total</b> | <b>6</b>                                 | <b>10</b>  | <b>14</b>                               | <b>4</b>  | <b>10</b>   | <b>18</b>  | <b>5</b>                          |

Source: GAO.

## Appendix III: Debt Owed to SSA from Overpayment of DI and SSI Benefits Is Mounting

SSA's failure to promptly prevent improper disability payments for the DI and SSI programs has, in part, contributed to overpayments in these programs. The overpayment of DI and SSI benefits may come from beneficiaries who had their benefits suspended or terminated following a work CDR. Overpayments may also be caused by other types of events, including receipt of workers compensation benefits, being in prison while receiving benefits, and medical improvement to the point where the individual no longer has disabilities. As shown in figure 3, in fiscal year 2004 the total net amount owed to SSA for DI and SSI overpayments was \$7.6 billion.<sup>1</sup> This debt has significantly increased through fiscal year 2008, as individuals owed over \$10.7 billion in overpayments of DI and SSI benefits.<sup>2</sup>

**Figure 3: Total DI and SSI Overpayment Debt, 2004-2008**



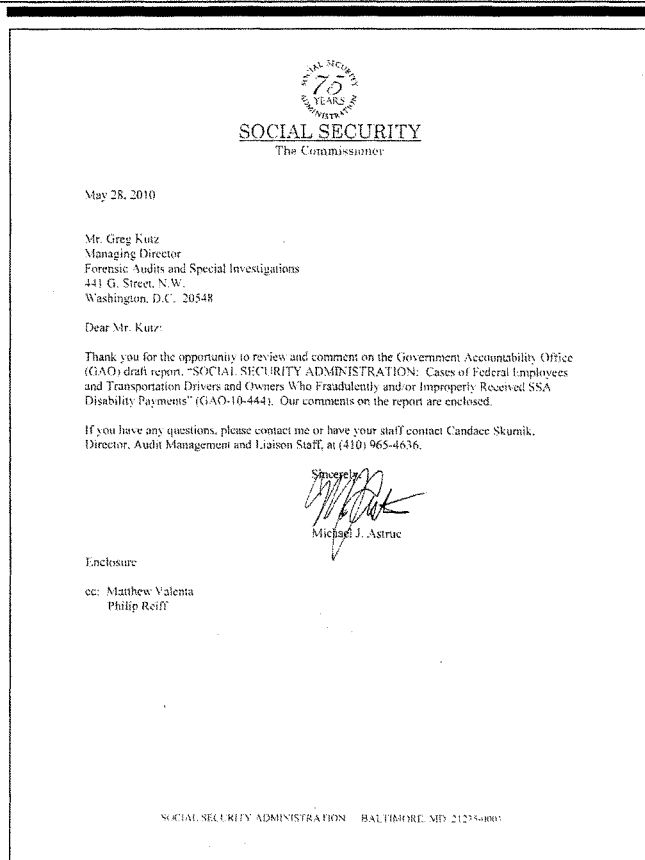
Source: GAO analysis based on SSA data.  
 Note: The SSI portion of totals includes the overpayments to nondisability (i.e., age-based) recipients.

<sup>1</sup>Total overpayment debt comprises existing debt carried forward from prior years and newly detected overpayments, net of collections, waivers, and write-offs in each fiscal year.

<sup>2</sup>For 2008, the overpayment debt was \$5 billion for DI and \$5.7 billion for SSI. Because of SSA system limitations, SSA was not able to separate overpayments to age-based SSI recipients from those to SSI disability recipients. However, most of the SSI recipients receive benefits based on disability or blindness. Specifically, as of December 2008 84 percent of SSI recipients were eligible because they were disabled or blind, the remaining 16 percent of SSI recipients were eligible based on age.

## Appendix IV: Comments from the Social Security Administration

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



Appendix IV: Comments from the Social Security Administration

**COMMENTS ON THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT REPORT, "SOCIAL SECURITY ADMINISTRATION (SSA): CASES OF FEDERAL EMPLOYEES AND TRANSPORTATION DRIVERS AND OWNERS WHO FRAUDULENTLY AND/OR IMPROPERLY RECEIVED SSA DISABILITY PAYMENTS" (GAO-10-444)**

**General Comments**

Thank you for the opportunity to comment on the draft report *Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments*, and for your efforts in collaborating with us over the last few weeks as you worked to issue your findings. We believe that you provide a fair representation for some of the issues. For others, though, you do not, and we remain concerned that your overall message is misleading and in some cases factually incorrect.

We clearly recognize the importance of reducing improper and fraudulent payments: considering the size of our programs, we are keenly aware of this need. In fact, "Curbing Improper Payments" is the first objective under our 2008-2013 Strategic Plan Goal to "Preserve the Public's Trust in Our Programs." As further evidence of our commitment, we are taking a number of proactive actions described in our "Annual Report – Executive Order 13520, Reducing Improper Payments." We issued the report on May 18, 2010, and in it explain our methods for identifying improper payments and analyzing their root causes, and also our specific plans for reducing them in the future.

We are pleased that you acknowledge some of our efforts. For example, we appreciate your citing our commitment to increase the number of Supplemental Security Income (SSI) redeterminations we perform this year. However, increasing the number of redeterminations is just one of a number of approaches we are taking to reduce improper payments.

In your report, you describe some possible alternatives, such as periodically matching the names of disability beneficiaries against Federal payroll records to identify possible situations where we are improperly paying people who are working. As we note in our comments, our current enforcement process captures Federal payroll data, but we will review the efficacy of matching these payroll records with our records.

As we have noted, our methods are working. The report does not acknowledge that prior to the report's issuance, we had already detected overpayments for half of the 20 cases handpicked for this review. Our existing processes identified these cases, and we had already computed overpayment amounts. We would have identified the remaining cases where IRS reported earnings for those beneficiaries through subsequent enforcement activities.

We are grateful you took the time to meet with us to gain a better understanding of our program requirements; but we must note that you continue to inappropriately apply the complete

See comment 1.



**Appendix IV: Comments from the Social Security Administration**

|                       |   |
|-----------------------|---|
| <p>See comment 2.</p> | <p style="text-align: right;">2</p> <p>definition of substantial gainful activity (SGA). Under the requirements of the disability programs, individuals are not determined to be performing work activity at the SGA level based on earnings levels alone. The SGA regulatory definition requires that the work activity criteria also include what the nature of the work is, how well the individual performs the work, whether the work is done under special conditions, whether the individual is self-employed, and what kind of time is spent in work activity (20 C.F.R. 404.1573). We must consider all these factors when determining SGA and when assessing whether a person has been paid improperly.</p> <p>We are also concerned that you did not adequately consider our various work incentives. While you mention them briefly in your narrative, you do not seem to appreciate their importance in determining beneficiaries' eligibility. Please see the attached fact sheet for further information on work incentives.</p>   |
| <p>See comment 3.</p> | <p>As the report's title suggests, you devoted much of your effort to examining activity related to transportation drivers and owners. Your recommendations, though, do not address drivers and owners, and we believe the title of your report may be an overstatement and raise unwarranted concerns that there is widespread fraud in this area. Accordingly, we suggest that you consider revising the title of the report.</p> <p>The following provides our response to your two recommendations:</p> <p><b><u>Recommendation 1</u></b></p> <p>Evaluate the feasibility (including consideration of any costs, operational and system modifications) of incorporating the Automated Earnings Reappraisal Operations (AERO) process to identify individuals that have returned to work.</p> <p><b><u>Comment</u></b></p> <p>We agree and will evaluate the feasibility of utilizing the AERO process as you recommend.</p> <p><b><u>Recommendation 2</u></b></p> <p>Evaluate the feasibility of periodically matching SSA disability beneficiaries and recipients to federal payroll data. Such matches would provide SSA with more timely data to help SSA systematically and more effectively identify federal employees who are likely to incur overpayments.</p> <p><b><u>Comment</u></b></p> <p>We agree. As you discuss in the report, we currently conduct a computer match of our beneficiary information with Internal Revenue Service data for all wage earners. While we capture Federal payroll data through that enforcement process, we will review the efficacy of matching Federal payroll records with our records. We will then assess whether such a data</p> |

Appendix IV: Comments from the Social Security Administration

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|----------------|--|
|                | 3  |
| See comment 4. | <p>match might detect unreported earnings earlier, trigger work continuing disability reviews (CDR) sooner, and result in smaller overpayments.</p> <p><b>Request:</b> In the first sentence of the "Highlights" page, you state that, "there are indications that about 1,500 federal civilian employees may have improperly received benefits." Please provide us with the data, including beneficiaries' Social Security numbers, that you used to support your conclusion. We will examine the information in evaluating your recommendation and also assess whether these beneficiaries have, or would have been, identified in our existing computer match with the IRS.</p>   |
|                | <p><b>Page/Sentence Specific Comments</b></p> <p><b>Highlights page, "Why GAO Did This Study"; page 1, 1<sup>st</sup> sentence:</b></p> <p>You refer to both the Social Security Disability Insurance (SSDI) and SSI programs as "cash assistance" programs.</p>   |
| See comment 5. | <p><b>Comment:</b> Replace the term "cash assistance" with "cash benefit." SSDI is not a cash assistance program; it is a social insurance program to which wage earners contribute and earn the right to disability benefits for themselves and their dependents.</p>   |
| See comment 5. | <p><b>Highlights page, "Why GAO Did This Study"; page 1, 1<sup>st</sup> paragraph:</b></p> <p><b>Comment:</b> Similarly, replace references to "financial assistance" with the term "cash benefit."</p>  |
| See comment 6. | <p><b>Highlights page, "What GAO Found," 1<sup>st</sup> paragraph, last sentence reads:</b></p> <p>"SSA currently does not perform a payroll or DOT records match to identify individuals improperly receiving benefits."</p> <p><b>Comment:</b> This statement is not wholly accurate. As you acknowledge at the bottom of page 6 and top of page 7, we conduct a match of beneficiary data with IRS data for all wage earners. We do not, however, match our data to the subset of Federal wage earners as you did in your study. We suggest you replace the sentence with the following:</p> <p>"While SSA conducts a match of its beneficiary file to IRS data for all wage earners, it does not match its records to Federal payroll or DOT data to potentially identify persons who may be improperly receiving benefits."</p> |

Appendix IV: Comments from the Social Security Administration

|                |   |
|----------------|---|
| See comment 5. | <p style="text-align: right;">4</p> <p><u>Page 1, 1<sup>st</sup> paragraph, 1<sup>st</sup> sentence, 5<sup>th</sup> line</u><br/> <b>Comment:</b> Replace "disabled people" (semantics – the term often conveys a negative meaning) with the words, "persons with disabilities" and use it throughout the report.</p>   |
| See comment 5. | <p><u>Page 4, 1<sup>st</sup> full sentence reads:</u><br/>         "To illustrate actual cases of fraudulent payments and/or improper payments from our macro analysis, we non-representatively selected 20 cases..."<br/> <b>Comment:</b> In this sentence and throughout the report you say, "macro analysis." This is not a commonly accepted statistical term. We suggest you define its meaning, or alternatively use a different term to describe the nature of your analysis</p>                   |
| See comment 5  | <p><u>Page 5, "Background", 2<sup>nd</sup> sentence reads:</u><br/>         "DI replaces income for those with Social Security work records and provides benefits related to their prior earnings levels."<br/> <b>Comment:</b> DI does not "replace income." it provides cash benefits. Please revise to read:<br/>         "DI provides cash benefits to disabled workers and their dependents based on their prior earnings."</p>  |
| See comment 5. | <p><u>Page 6, 1<sup>st</sup> paragraph, 2<sup>nd</sup> full sentence reads:</u><br/>         "To be eligible for benefits, individuals with disabilities must have a specified number of recent work credits under Social Security (which is generally 10 years of work credits) at the onset of medical impairment."<br/> <b>Comment:</b> For accuracy, change the parenthetical phrase to read:<br/>         "(specifically, working 5 out of the last 10 years or 20 quarters out of 40 quarters)"</p> |
| See comment 5. | <p><u>Page 6, 2<sup>nd</sup> paragraph, 1<sup>st</sup> sentence reads:</u><br/>         "SSA conducts work issue continuing disability reviews (CDR) to determine if beneficiaries are working above the SGA level."<br/> <b>Comment:</b> Revise to read: "... working at or above the SGA level."<br/>         Note: there may be other references in the report that you need to revise similarly.</p>  |

Appendix IV: Comments from the Social Security Administration

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| See comment 5. | <p style="text-align: right;">5</p> <p><b>Page 6, 2<sup>nd</sup> paragraph, 4<sup>th</sup> sentence reads:</b></p> <p>"Once the trial work period is completed, beneficiaries are generally ineligible for future DI benefits unless their earnings fall below the SGA level."</p> <p><b>Comment:</b> Revise to read:</p> <p>"... for future DI benefits unless their earnings fall below the SGA level during the 36-month extended period of eligibility (EPE)."</p>   |
| See comment 5. | <p><b>Page 7, "Supplemental Security Income," 1<sup>st</sup> sentence in part reads:</b></p> <p>"... provides a minimum level of income to financially needy individuals who are aged, blind, or considered eligible for benefits because of physical impairments."</p> <p><b>Comment:</b> Revise to read:</p> <p>"... for benefits because of physical or mental impairments."</p>  |
| See comment 5. | <p><b>Page 8, 2<sup>nd</sup> full sentence reads:</b></p> <p>"SSI generally reduces the monthly benefit \$0.50 for every \$1 of monthly earnings after the first \$85."</p> <p><b>Comment:</b> Revise to read:</p> <p>"... reduces the monthly benefit \$1 for every \$2 of monthly earnings after the first \$85."</p>  |
| See comment 7. | <p><b>Page 9, footnote 10 reads:</b></p> <p>"Federal disability programs such as SSA's "Ticket to Work" encourage certain disability beneficiaries to work and still receive all or a portion of their disability benefits. In addition, from the beneficiary's income, SSA may exclude certain out-of-pocket work expenses (e.g., costs of car modifications or attendant care) from the calculation of the beneficiary's income. The beneficiary's salary may also include compensation for sick leave, which SSA also excludes from the calculation of the beneficiary's income. From our analysis of the data, it is impossible to determine the extent to which this population beyond our 20 cases was affected by these factors."</p> <p><b>Comment:</b> We believe this deserves more than footnote consideration. Readers may not understand the importance of work incentives when determining SGA or countable income and the time it takes to develop this information, which may cause overpayments to continue for</p> |

Appendix IV: Comments from the Social Security Administration

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|                | <p style="text-align: right;">6</p> <p>longer periods of time. We recommend you insert the footnote as a new paragraph after the first partial paragraph on page 6.</p> <p><u>Page 10, footnote 11 reads:</u></p> <p>"The actual estimate of federal employees who may be improperly receiving benefits was 1,486."</p> <p><u>Comment:</u> Please reconcile "1,486" to the "1,487" number presented in Table 1 on page 11.</p>  |
| See comment 5. |   |
|                | <p><u>Page 11, Table 1, use of the term, "joint"</u></p> <p><u>Comment:</u> Please replace with the word "concurrent."</p> <p><u>Page 12, Commercial Drivers and Transportation Business Registrants Receiving SSA Disability Benefits, first sentence reads:</u></p> <p>"Our analysis of data from DOT on commercial drivers and from SSA on disability beneficiaries found that about 600,000 individuals had been issued commercial drivers licenses (CDL) and were receiving full federal medical disability benefits."</p> |
| See comment 5. | <p><u>Comment:</u> Revise to read:</p> <p>"... issued commercial drivers licenses (CDL) and were receiving Social Security disability benefits."</p> <p><u>Page 15, 1<sup>st</sup> full sentence reads in part:</u></p> <p>"As mentioned earlier, the 20 cases were primarily selected based on our analysis of SSA electronic and paper files for the more egregious overpayments..."</p>  |
| See comment 5. | <p><u>Comment:</u> We believe "egregious" may be too strong a characterization. Possibly consider "larger."</p>   |


Appendix IV: Comments from the Social Security Administration

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| See comment 8.  | <p><u>Page 17, bullet 3, 2<sup>nd</sup> sentence reads:</u></p> <p>"Although SSA has the authority to charge interest and penalties, SSA did not do so on these agreements."</p> <p><b>Comment:</b> The Social Security Act authorizes us to waive repayments or to reach agreements with beneficiaries as to the monthly amount they can afford to repay. The report does not establish that these cases met the conditions for applying penalties or interest on the overpayments. Accordingly, we recommend you delete this sentence.</p>   |
| See comment 5.  | <p><u>Page 17, bullet 3, 3<sup>rd</sup> sentence reads:</u></p> <p>"As a result, several individuals from our cases were placed in long-term, interest-free repayment plans for improperly cashing disability overpayments."</p> <p><b>Comment:</b> Please change the word "cashing" to "accepting."</p>   |
| See comment 8.  | <p>We also suggest you remove the term, "interest-free repayment" because it misrepresents our procedures for handling overpayments and recovery actions. In every case we must review an individual's income and assets, and then consider those factors in determining whether or not a demand for repayment will create undue hardship. We recommend that you delete from the report any references to the term "interest."</p>   |
| See comment 9.  | <p><u>Page 18, first full paragraph 2<sup>nd</sup> sentence reads:</u></p> <p>"SSA stated that they did not seek a legal determination as to whether individuals that had their payments suspended because of employment should receive these stimulus payments."</p> <p><b>Comment:</b> This sentence mischaracterizes the situation. While we did not seek a formal opinion, we did consult with our Office of the General Counsel (OGC) on issues concerning eligibility for economic recovery payments. We then applied the law accordingly. The American Recovery and Reinvestment Act of 2009 provides clear wording on eligibility for the \$250 payment, so a formal opinion was unnecessary. As we stated in one of our meetings, our OGC was willing to discuss this with you, but you declined the offer.</p> |
| See comment 10. | <p>Also, the report does not include information that we provided to GAO investigators on the relationship between the \$250 economic recovery payment and the Making Work Pay tax credit. According to the IRS, "the Making Work Pay tax credit, normally a maximum of \$400 for working individuals and \$800 for working married couples, is reduced by the amount of any economic recovery payment (\$250 per eligible recipient of Social Security, Supplemental Security Income, Railroad Retirement or Veterans' benefits) or Special Credit for Certain Government Retirees (\$250 per eligible federal or state retiree)." The GAO report does not</p>  |

Appendix IV: Comments from the Social Security Administration

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|                 | <p style="text-align: right;">8</p> <p>include this information. We believe that this is a problem because the GAO report includes an estimate of "\$10.5 million in stimulus payments to approximately 42,000 individuals who were covered by the EPE," suggesting a sizeable net impact of these economic recovery payments on the Federal budget. We recommend including a description of the corresponding reduction in the Making Work Pay tax credit for these beneficiaries. This will provide the reader with a more accurate impression of the net impact of the economic recovery payments on the Federal budget.</p> <p><b>Page 23, Case 9 2<sup>nd</sup> bullet, 2<sup>nd</sup> sentence reads:</b></p> <p>"The estimated overpayment was about \$23,000."</p> <p><b>Comment:</b> Please correct the estimated overpayment to \$19,000.</p> |
| See comment 5.  |   |
| See comment 11. | <p><b>Page 24, Case 10, 2<sup>nd</sup> bullet, 2<sup>nd</sup> sentence reads:</b></p> <p>"The estimated overpayment was about \$45,000."</p> <p><b>Comment:</b> Please correct the estimated overpayment to \$37,000.</p>   |
| See comment 5.  | <p><b>Page 24, Case 10, 5<sup>th</sup> bullet reads:</b></p> <p>"Beneficiary is under a repayment agreement with SSA for about \$100 per month."</p> <p><b>Comment:</b> Delete the fifth bullet; there is no repayment agreement because the beneficiary repaid the overpayment in full.</p>  |
| See comment 5.  | <p><b>Page 24, 2<sup>nd</sup> sentence reads:</b></p> <p>"We are referring all 20 cases to the SSA Office of Inspector General for further investigation and SSA management for collection action."</p> <p><b>Comment:</b> It appears you mingle two separate issues in this sentence: fraud and overpayments. We assume that you mean you will refer only some of the cases (those involving possible fraud) to our Inspector General (IG), and you will refer all cases (those involving possible overpayments) to SSA management. We suggest you revise the sentence for clarification because it implies erroneously that all 20 cases involve possible fraud, and you will refer them all to the IG.</p>   |
| See comment 5.  | <p><b>Page 26, in the paragraph above Table 3, 4th sentence reads:</b></p> <p>"We have referred all 20 cases to the SSA Office of Inspector General for further investigation and to SSA management for collection action."</p> <p><b>Comment:</b> See comment immediately above. Also, to our knowledge, you have referred only two cases to our OIG, and one to the U.S. Postal Service IG.</p>   |

Appendix IV: Comments from the Social Security Administration

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| See comment 12. | <p style="text-align: right;">9</p> <p><u>Page 29, Case 16, 2<sup>nd</sup> bullet, 2<sup>nd</sup> sentence reads:</u><br/>         "The estimated overpayment was about \$25,000."<br/> <u>Comment:</u> Please delete the estimated overpayment. There is no overpayment, estimated or otherwise, on this record.</p> <p><u>Page 29, Case 16, 5th bullet, 2<sup>nd</sup> sentence reads:</u><br/>         "However, SSA made her eligible for payments again in August 2007."<br/> <u>Comment:</u> Please delete this sentence and replace it with the following:<br/>         "The beneficiary was eligible for payments again in August 2007, because her earnings were below SGA. Benefit payments were stopped in March 2009."</p> <p><u>Page 32, 1<sup>st</sup> paragraph, 2<sup>nd</sup> sentence reads:</u><br/>         "For all 20 cases, SSA did not promptly suspend the payments for the Social Security disability benefits."<br/> <u>Comment:</u> Please delete this sentence as it is misleading. We cannot "promptly" suspend payments because someone is working. A suspension is not always appropriate. Determinations of SGA require evaluation of work and earnings, and we must provide due process before suspending anyone's benefits.</p> <p><u>Pages 35 and 36</u><br/> <u>Comment:</u> On page 35 under "Debt Owed to SSA from Overpayment of DI and SSI Benefits are Mounting," you discuss "substantial increases in the amount of SSA reported debt owed by individuals." In Figure 3, page 36, you provide a graphic representation of that debt for the years 2004 through 2008. It is important to note that your data represents <u>total</u> overpayment debt. By including this information, you are implying that the overpayment activity you describe in your report somehow contributes significantly to the overall debt numbers. This implication is inaccurate. We believe you should remove pages 35 and 36 from the report or at the very least provide clarifying language.</p> <p style="text-align: center;"><br/>         Fact Sheet.docx</p> |
| See comment 12. |   |
| See comment 5.  |   |
| See comment 5.  |   |



Appendix IV: Comments from the Social Security Administration

Substantial Gainful Activity  
Fact Sheet

Definition of Disability

The inability to engage in any substantial gainful activity (SGA) because of a medically-determinable physical or mental impairment(s) that:

- is expected to result in death, or
- has lasted or is expected to last for a continuous period of not less than 12 months.

SGA

SGA means the performance of significant physical and/or mental activities in work for pay or profit, or in work of a type generally performed for pay or profit, regardless of the legality of the work.

- Work may be "substantial" even if performed on a part-time basis, or if the person does less, is paid less, or has less responsibility than in previous work.
- Work is "gainful" if it is the kind of work usually done for pay, whether in cash or in kind, or for profit, whether or not a profit is realized.

SGA is used as a factor to determine initial eligibility for Social Security Disability Insurance (SSDI) and to decide if disability continues for SSDI after completion of the trial work period (TWP). SGA is only used as a factor to determine initial eligibility for Supplemental Security Income (SSI) disability benefits. We do not use SGA for initial eligibility to SSI based on blindness. After initial eligibility, SGA is not considered for SSI benefits.

Evaluation of SGA

Work is counted when earned for SSDI and when paid for SSI. After monthly gross earnings are determined, applicable work incentives are applied. We are only concerned with income that represents the actual value of the work performed as a result of the person's own productivity. We then use the SGA earnings guidelines to evaluate the countable earnings.

Generally, countable earnings averaging over \$1,000 a month (in 2010) demonstrate the ability to perform SGA. For blind persons, countable earnings averaging over \$1,640 a month (in 2010) generally demonstrate SGA for SSDI.

Benefit Eligibility Based on SGA

If an SSDI blind or disabled claimant's work is over SGA, the definition of disability is not met and benefits are denied. The same is true for an SSI disabled claimant.

When an SSDI beneficiary returns to work, he or she will receive full, unreduced benefits for at least 9 work months. This is the TWP. After the TWP, we will evaluate earnings

**Appendix IV: Comments from the Social Security Administration**

for SGA to determine if disability continues. This is called a work continuing disability review (CDR).

When an SSI beneficiary returns to work, we are not concerned with SGA. We count income and earnings when received (after allowable deductions) to determine the monthly payment amount. The countable income is subtracted from the Federal Benefit Rate (\$674 in 2010) to arrive at the payment. An SSI beneficiary may go in and out of pay based on countable income. An SSI beneficiary whose payment is reduced to zero because of earnings will retain eligibility to SSI and Medicaid, provided disability continues and earnings are below a State threshold amount. State thresholds vary between a low of \$23,981 in Alabama to a high of \$54,815 in Connecticut.

**Work Incentives**

Some of the work incentives that may be applied to reduce countable earnings for SSDI are:

- TWP: Allows beneficiary to test ability to work without affecting benefits; the TWP is completed when 9 months (with earnings over \$720 in 2010) are completed within a rolling 60-month period.
- Impairment related work expenses: Out-of-pocket costs for items and services related to the disability that are needed in order to work.
- Subsidies and special conditions: Supports received on the job which results in the person receiving more pay than the actual value of the services performed.
- Unsuccessful work attempts: We disregard earnings from work attempts of 6 months or less that were stopped due to the impairment.

Some of the work incentives that reduce SSI countable earnings are:

- Impairment related work expenses.
- Blind work expenses: For SSI beneficiaries receiving benefits based on blindness, we exclude any earnings that are used to meet expenses needed to earn that income; they do not need to be related to blindness.
- Student earned income exclusion: We do not count up to \$1,640 (in 2010) of monthly earnings (up to a yearly maximum of \$6,600 in 2010) of a student under age 22.
- Plan to achieve self-support: We do not count any earnings an SSI beneficiary sets aside toward an approved plan.

**Work CDRs**

After an SSDI beneficiary completes the TWP and continues to work, we will conduct a work CDR to determine if disability continues. We do not perform work CDRs for SSI beneficiaries.

We may receive a report that an SSDI beneficiary has worked directly from the beneficiary, from a third party, or from an earnings alert (such as the Internal Revenue Service match). We first attempt to obtain verification of monthly wages, such as pay

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**Appendix IV: Comments from the Social Security Administration**

stubs, directly from the beneficiary. When the beneficiary cannot or will not provide proof of wages, we must request it from the employer.

If the TWP has been completed, we must determine if work after the TWP represents SGA. Before determining that earnings are SGA, we must determine if any work incentives apply. (Work incentives do not apply during the TWP.) This may require additional verification, such as receipts for impairment related expenses from the beneficiary or determining the value of a subsidy provided by an employer.

Once we complete our development, we make an SGA determination. In cases where we cannot obtain any verification from the beneficiary or employer, we will make an SGA determination based on all available evidence.

If we find that work is over SGA, then disability ceases. We send a due process notice to the beneficiary, who has 10 days to present any other proof before we stop benefits. The beneficiary may also appeal our determination and ask for payment continuation while we review our decision. If there is no appeal, the beneficiary will be due benefits for the month of cessation and a grace period during the 2 following months.

Overpayments are unavoidable because even if the beneficiary appears to be working over SGA, we cannot stop benefits until we have completed our development, made our determination, and provided due process. The beneficiary, however, may ask us at any time to suspend benefits if he or she wishes to avoid or reduce an overpayment due to work. We would continue our development while benefits are suspended.

**The Extended Period of Eligibility (EPE)**

An SSDI beneficiary enters the EPE after completion of the TWP. During the first 36 months after the TWP, if a beneficiary, whom we have determined to be ceased, stops working and earning over the SGA earnings limit, his or her benefits will be reinstated (without a new application). After these 36 months, if a beneficiary is receiving benefits because work is under SGA, benefits will continue until the next month SGA work is performed. Benefits are terminated with the first month of SGA after the 36-month period. Again, we cannot terminate the benefit until we have determined that the work is over SGA and provided due process.

The following are GAO's comments on the Social Security Administration's letter dated May 28, 2010.

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### GAO Comments

1. In the report, we identify those cases where SSA has sent an overpayment notification letter to the individual. However, we do not believe that identifying fraudulent or improper payments after dollars have been disbursed is an effective internal control. Our work across the government has shown that once fraudulent or improper payments are made, the government is likely to only recover pennies on the dollar. Preventive controls are the most efficient and effective.
2. In the report, we state that to adequately assess an individual's work status, a detailed evaluation of all the facts and circumstances should be conducted. This evaluation would include contacting the beneficiary and the beneficiary's employer, obtaining corroborating evidence such as payroll data and other financial records, and evaluating the beneficiary's daily activities. Based on this evaluation, a determination can be made on whether the individual is entitled to continue to receive SSA disability payments or whether such payments should be suspended. As such, our analysis provides an indicator of potentially improper or fraudulent activity related to federal employees, commercial drivers, and owners of commercial vehicle companies receiving SSA disability payments.
3. Our report described two cases of transportation drivers and owners who fraudulently and/or improperly received SSA disability payments. We do not believe that a change to the title is necessary.
4. We believe that SSA should perform the match with more current federal payroll records to determine the efficacy of matching federal salary payment records with SSA disability files of DI beneficiaries and SSI recipients.
5. We revised the report to address SSA's specific comment.
6. IRS provides summary earnings data for a calendar year. We have previously reported that the IRS earnings data used by SSA in its enforcement operations are typically 12 to 18 months old when SSA first receives them, thus making some overpayments inevitable. The federal payroll data provide detailed earnings information for each pay period (e.g., all 26 pay periods for a fiscal year). We believe that these data are more useful in the determination of whether continuing

disability reviews and redeterminations should be conducted and could be more current.

7. We believe the footnote is appropriate for this report.
8. As we stated in the report, SSA has the authority to charge interest and penalties, but SSA did not do so on any of its agreements with beneficiaries in our case studies.
9. The American Recovery and Reinvestment Act of 2009 states that these stimulus benefit payments should be provided to individuals who are entitled to DI benefit payments or are eligible for SSI cash benefits. SSA did not seek a formal legal determination as to whether individuals who had their payments suspended because of employment—and were thus not receiving DI or SSI payments during November and December of 2008 or January of 2009—should receive these stimulus payments. We continue to believe that a question exists as to whether these payments were proper and believe that SSA should have at least sought a legal opinion before making the payments.
10. IRS may well collect some of these stimulus benefits payments through a reduction of the “Making Work Pay” tax credit. We simply stated the magnitude of the stimulus payments made to those individuals covered under the extended period of eligibility. However, we believe that relying on the IRS offset is not an effective internal control activity.
11. Our estimated overpayment amount was based on our review of detailed payroll records and discussion with the SSA beneficiary. We believe that our estimated overpayment is accurate.
12. Our estimated overpayment amount was based on our review of detailed payroll records and discussion with the SSA beneficiary. Detailed payroll records showed that the beneficiary’s earnings were never below the substantial gainful activity threshold. As such, our estimated overpayment is about \$25,000.

**SUBMISSIONS FOR THE HEARING RECORD**  
**to the testimony of**  
**The Honorable Michael J. Astrue**  
**Commissioner**  
**Social Security Administration**

**EXHIBIT #2a:**

Subsequent to the hearing, we received the following statement from our OIG:

Six of the twenty cases referred to in the GAO report were referred directly by GAO to our OIG between August 10, 2009 and June 30, 2010. The OIG had already received one of those six allegations from a member of the public and had already received a second of those six from the U.S. Postal Service OIG. Thus, the OIG received only four new allegations directly from GAO.

Two more of the twenty cases were referred to the OIG by the U.S. Postal Service OIG between July 16, 2009 and September 30, 2009 (in addition to the USPS OIG referral that was subsequently also referred by GAO).

The remaining twelve of the twenty cases were received by the OIG from SSA itself, and eleven of those twelve were referred together on July 23, 2010. This delayed referral of all of the cases that GAO considered possibly or probably fraudulent prevented the investigation by the OIG prior to release of the GAO report.

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**Permanent Subcommittee on Investigations**

**EXHIBIT #2a-d**

**EXHIBIT #2b:**

We have attached the executive summary of the study our Office of Quality Performance (OQP) conducted to determine whether a quarterly batch matching operation between the Title II disability rolls and the Office of Child Support Enforcement's (OCSE) quarterly wage files could reduce improper payments in a cost-effective manner. Based on this study, OQP does not recommend implementation of a match between the Title II disability rolls and OCSE's quarterly wages files. Such a matching operation would generate a relatively large number of alerts and return an investment of only about \$1.40 for every \$1 spent.

**Cost Benefit Analysis for a Pilot Computer Match between the Office  
of Child Support Enforcement (OCSE) Quarterly Wage File and the  
Disability Insurance (DI) Master Beneficiary Record (MBR)**

**Executive Summary**

**Study Objective**

The objective of this study was to determine if a quarterly batch matching operation between the Title II disability rolls and OCSE's quarterly wage files could cost effectively reduce improper payments.

**Background**

One of the major causes of improper payments in the Title II DI program is substantial gainful activity (SGA). The Continuing Disability Review Enforcement Operation (CDREO) alerts Title II disability cases with potential SGA. However, these alerts cannot be produced until annual wages are posted to SSA's Master Earnings File (MEF), which can be many months after the wages are earned.

SSA has been using quarterly wage data from OCSE in a batch matching operation with the Supplemental Security Record (SSR) for a number of years. Employers are required to report quarterly wage data to the States shortly after the close of the quarter. The States report the wages to OCSE shortly after receiving the wage data from the employers. A match between Title II disability beneficiaries and OCSE's quarterly wage files could alert cases with potential SGA many months before the CDREO alerts are generated. This could result in the more timely investigation of work activity and in the reduction of overpayments.

**Methodology**

Office of Quality Performance matched a sample of Title II beneficiaries who were eligible for benefits in calendar year 2007 to OCSE's quarterly wage files for the same time period. Matched cases with earnings over \$2,700 for at least one quarter in 2007 were selected for review.

Based on the alert generation timing for the OCSE quarterly wage match with the SSR, OQP staff assumed a hypothetical alert date of six months after the end of each quarter. For each sample case, overpayments that occurred before the hypothetical alert date were counted as retroactive overpayments that would have been captured earlier than it would have been captured in the CDREO process. Overpayments that occurred after the hypothetical alert date were counted as recurring overpayments that the OCSE match would have prevented from occurring.



**Findings**

A match between the MBR and the OCSE quarterly wage files would produce about 243,000 alerts annually in addition to the current CDREO alerts. These alerts would produce about \$23 million in overpayment benefits that are not captured under CDREO. The cost of working these additional alerts would be about \$17 million.

**Recommendations**

OQP does not recommend implementation of a match between the Title II disability rolls and OCSE's quarterly wages files. Such a matching operation would generate a relatively large number of alerts (in addition to those already produced by the CDREO match) and the return on investment would only be about \$1.40 for every \$1 spent.

**EXHIBIT #2c:**

To clarify, our regulations, which arose in part from court rulings in the 1980s, provide that we give more weight to a treating physician's opinion about the claimant's impairments because of the treatment relationship. We will give a treating physician's opinion controlling weight if it is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with other substantial evidence in the record, unless other factors set forth in our regulations, such as medical specialization, show that greater weight should be given to the opinion of a different medical source. We may request a consultative examination if we need additional evidence.

**EXHIBIT #2d:**

Our annual Continuing Disability Review (CDR) model integrity sampling, which involves about 60,000 cases per year, demonstrates that the CDR scoring models are highly accurate and reliable tools for prioritizing medical CDRs. The model accuracy rate for predicting cases that will not medically improve, and thus are processed as CDR mailers (which are explained below), is about 99 percent.

We employ a series of statistical scoring models to predict the likelihood of medical improvement for adult Disability Insurance (DI) beneficiaries and Supplemental Security Income (SSI) beneficiaries who receive benefits due to disability. These statistical scoring models apply mathematical formulas developed through our historical disability data to generate a statistical score that equates to the predicted likelihood of medical improvement at a given point in time. The disability data we use to estimate these scoring models consist of longitudinal data files based on our core transactional, case processing, and management information systems; they include a wide array of medical, demographic, and disability case-related information on our disability beneficiaries. These scoring models allow us to conduct CDRs in a cost-effective and efficient manner that is also less burdensome for disability beneficiaries.

The key predictive variables in the models include the age of the disabled individual, time on the disability rolls, the type of impairment involved, and the number of prior full medical reviews the individual has received. For example, the historical data indicate for most people that, all other things equal, the older an person is, the less there has been medical improvement related to the ability to work.

Based on the CDR statistical scoring model results, a case selected for a CDR will receive one of two possible treatments. The first treatment is the direct release or full medical review CDR process, which applies to beneficiaries with profile scores signifying a relatively higher likelihood of medical improvement. In most of these cases, we will interview the beneficiary and obtain evidence to evaluate the beneficiary's condition. We will then determine whether the beneficiary has medically improved.

The second treatment, which we can process without field office, processing center or disability determination services involvement, is the mailer process. We use this process for beneficiaries with profile scores signifying a relatively lower likelihood of medical improvement. In these cases, we send a mailer questionnaire to the beneficiary for completion. The CDR mailer contains six short questions concerning recent work activity, medical treatment, and medical condition. If the beneficiary's answers indicate a possible recent improvement in his or her medical condition, we select the case for a full medical review.

Prioritizing this workload by expected medical improvement helps ensure that regardless of the resources to perform medical CDRs in a given year, we work the most productive and cost-effective reviews possible each year. Consequently, while medical improvement in the DI and SSI disabled population is a relatively infrequent occurrence (only around 6 to 7 percent of the adult DI and SSI populations is terminated from the rolls each year due to medical improvement), our CDR scoring models are a highly effective tool for prioritizing cases for medical CDRs.

## United States Senate

WASHINGTON, DC 20510

July 23, 2010

The Honorable Tom Harkin  
Chairman  
Appropriations Subcommittee  
on Labor, Health and Human Services,  
Education, and Related Agencies  
United States Senate  
Washington, DC 20510

The Honorable Thad Cochran  
Ranking Member  
Appropriations Subcommittee  
on Labor, Health and Human Services,  
Education, and Related Agencies  
United States Senate  
Washington, DC 20510

Dear Senators Harkin and Cochran:

We respectfully request that the FY 2011 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill include the President's Budget full request of \$12.379 billion for the Social Security Administration's (SSA) administrative expenses. Your past support for SSA has helped the agency make significant progress recently. In order for that progress to be maintained and furthered, we believe that the full President's request is needed for FY 2011.

Many applicants to the Social Security Disability Insurance (SSDI) program and the disability portion of the Supplemental Security Income (SSI) program can wait as long as three years to have their applications for these programs finally approved. This can create enormous financial and psychological pressures on these applicants. Many of these delays result from the long times it can take for applicants to receive appeals hearings before administrative law judges. These long delays are due to the tremendous backlog of such hearings, and a large share of these backlogs results from the combination of inadequate staffing and the increases in claims due to the recession. Eliminating the backlog requires that the pending number of hearings be reduced to 466,000. Currently, there are about 694,000 hearings that are pending.

Fortunately, staffing levels at SSA have increased in recent years due to significant funding increases approved by the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies – with helpful recommendations from the Senate Budget Committee and other interested members of Congress. As a result, the backlog level is down from its peak of about 769,000 hearings in December of 2008. That said, our goal is not just to reduce the backlog, but eliminate it by the end of FY 2013. Although SSA can accomplish that objective, it would need the full amount of the President's Request for FY2011 to be appropriated.

The President's Request of \$12.379 billion for FY 2011 is a \$579 million increase (4.9%) from the FY 2010 enacted level, if FY 2010 "workload processing" funding from the FY 2009 economic recovery law is taken into account. Of this \$579 million, \$420 million is necessary just to keep pace with increases in operating costs, such as salaries and rent.

Permanent Subcommittee on Investigations

EXHIBIT #3

The Honorable Tom Harkin and the Honorable Thad Cochran  
 July 23, 2010  
 Page 2

This leaves \$159 million to apply to service delivery problems at SSA. The President's Budget allocates almost all of this \$159 million to keep SSA on track to eliminate the backlog in appeals hearings by the end of FY 2013, and to reduce the pending number of initial claims adjudications to the pre-recession level.

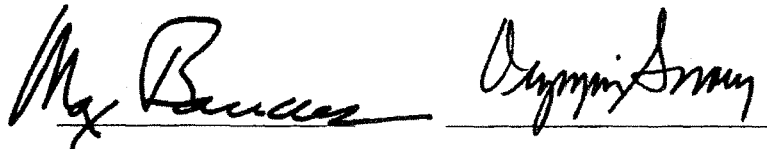
There are other critical service delivery problems, however, that will remain unaddressed, even if the President's Request is appropriated. Telephone service is poor in most field offices, and customers must wait more than an hour in some offices to be served in-person. In addition, there is no funding allocated for the 3,100 additional work-years that are required for tasks that occur after beneficiaries are already receiving benefits, such as paying out benefits that were improperly withheld. These problems can only be addressed if funding for FY 2011 is greater than the President's Request. However, at a time when fiscal restraint is critically needed to reduce Federal budget deficits, it would be inappropriate to ask for an increase that is greater than the President's Request. At the same time, the service delivery problems discussed above would become even worse if SSA received less than the 4.9% increase requested by the President.

The President's Budget for FY 2011 includes a proposal for upward adjustments for program integrity activities to the ceiling on aggregate appropriations for all subcommittees. Each such adjustment would only be allowed to occur if the base amount for that activity were fully appropriated. One such adjustment would be for SSA to conduct additional Continuing Disability Reviews (CDRs) and Supplemental Security Income (SSI) redeterminations. CDRs provide information to SSA to discontinue disability program payments to beneficiaries who are no longer disabled. These reviews save \$10 for each dollar spent. SSI redeterminations review the eligibility of SSI beneficiaries each year. Seven dollars is saved for every one dollar spent on these redeterminations. The President's Budget proposes an adjustment of \$513 million for these two SSA program integrity activities, which when added to the proposed base amount of \$283 million, would provide for total funding of \$796 million.

We recommend that you provide SSA with the full amount of the President's Request of \$12.379 billion for SSA's administrative (LAE) funding. In addition, we recommend that within this amount, you provide for both the base amount of \$283 million for program integrity activities, and the ceiling adjustment of \$513 million.

Thank you for the strong support you have demonstrated for SSA in the past. We hope you will continue this support for SSA in this year's Labor, Health and Human Services, Education, and Related Agencies appropriations bill.

Sincerely,



Two handwritten signatures are present. The signature on the left is 'Max Baucus' and the signature on the right is 'Olympia Snowe'. Both signatures are written in black ink and are positioned above horizontal lines that serve as baselines for the signatures.

The Honorable Tom Harkin and the Honorable Thad Cochran  
July 23, 2010  
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Blanche L. Lincoln Jeff P

Kent Conrad John F. King

Chuck Sch Jay Rockefeller

Robert Menendez Barbara Mikulski

Ann Feeley John Thune

Deanne Staines Bill Nelson

Jack Reed Jon Kyl

The Honorable Tom Harkin and the Honorable Thad Cochran  
July 23, 2010  
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Jim Boren      Barack Poff  
Tom Udall      Jim Johnson  
Ally E. Johnson      Jim Austin  
Al Franken      Herb Kohl  
Frank R. Lautenberg      Janice L. Schaak  
Ben Cardin      Jeffrey A. Merkley  
Bob Casey, Jr.      Carl Levin



The Honorable Tom Harkin and the Honorable Thad Cochran  
July 23, 2010  
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Rollin W. Brown Ted Kampfer

Mark R. Werner Chris Dodd

Kirsten E. Gillibrand Ben Landrum

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**G A O**

Accountability • Integrity • Reliability

United States Government Accountability Office  
Washington, DC 20548

September 22, 2010

The Honorable Carl Levin  
Chairman  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Tom Coburn  
Ranking Minority Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Governmental Affairs  
United States Senate

*Subject: Social Security Disability Fraud: Posthearing Responses on August 4, 2010,  
Case Studies in Federal Employees and Commercial Drivers Licenses*

On August 4, 2010, we testified before your subcommittee at a hearing entitled Social Security Disability Fraud: Case Studies in Federal Employees and Commercial Drivers Licenses. This letter responds to your request that GAO respond to a number of posthearing questions. The questions and our answers are provided in the enclosure. The responses are based on work associated with previously issued GAO products, which were conducted in accordance with investigative standards from the Council of the Inspectors General on Integrity and Efficiency. We did not obtain comments from the Social Security Administration.

If you have any further questions or would like to discuss these responses, please contact me at (202) 512-6722 or [kutzg@gao.gov](mailto:kutzg@gao.gov) or Matthew Valenta, Assistant Director, Forensic Audits and Special Investigations, at 214-777-5697 or [valentam@gao.gov](mailto:valentam@gao.gov).

Sincerely yours,

Gregory D. Kutz  
Managing Director  
Forensic Audits and Special Investigations

Enclosure -1

Permanent Subcommittee on Investigations

**EXHIBIT #4**

Enclosure

**Responses to Supplemental Questions for the Record**  
**Submitted by the Honorable Carl Levin**  
**Committee on Homeland Security and Governmental Affairs**  
**Permanent Subcommittee on Investigations**  
**Hearing on**  
**Social Security Disability Fraud:**  
**Case Studies in Federal Employees and Commercial Drivers Licenses**  
**August 4, 2010**

**Question**

1. Provide status on GAO's efforts to obtain agreement from the U.S. Postal Service, the Treasury, and the Department of Defense to release payroll and related information to the Social Security Administration for the purposes of detecting fraudulent and improper payments to federal employee disability beneficiaries.

- a) If you are unable to obtain agreement from the agencies, advise on whether current law needs to be modified to provide for such agreement.
- b) If agreement has been obtained, provide status on your efforts to forward information on the 1,500 cases you found to the Social Security Administration.

**Answer:**

The Privacy Act, which governs dissemination of personally identifiable information about individuals, does not cover GAO.<sup>1</sup> GAO is required to maintain information in a way that "prevents unwarranted invasions of personal privacy."<sup>2</sup> However, we do not believe that disclosure of federal employees to the Social Security Administration (SSA) in order to verify eligibility for disability payments would constitute an unwarranted invasion of personal privacy. As such, GAO provided SSA with a listing of the federal employees on August 18, 2010.

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<sup>1</sup>5 U.S.C. § 552a(a)(1).

<sup>2</sup>31 U.S.C. § 716(e)(2).

Enclosure

**Question**

**2. Provide status on whether the Department of Transportation will release information on commercial drivers' license holders who may be improperly or fraudulently receiving disability payments**

**Answer:**

The Privacy Act, which governs dissemination of personally identifiable information about individuals, does not cover GAO.<sup>3</sup> GAO is required to maintain information in a way that "prevents unwarranted invasions of personal privacy."<sup>4</sup> However, we do not believe that disclosure of commercial drivers' license holders to the Social Security Administration in order to verify eligibility for disability payments would constitute an unwarranted invasion of personal privacy. As such, GAO provided SSA with a listing of the commercial drivers' license holders on August 18, 2010.

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<sup>3</sup>5 U.S.C. § 552a(a)(1).

<sup>4</sup>31 U.S.C. § 716(e)(2).

Enclosure

Responses to Supplemental Questions for the Record  
Submitted by the Honorable Claire McCaskill  
Committee on Homeland Security and Governmental Affairs  
Permanent Subcommittee on Investigations  
Hearing on  
Social Security Disability Fraud:  
Case Studies in Federal Employees and Commercial Drivers Licenses  
August 4, 2010

**Question**

1. In the hearing you mentioned that you would try to arrange to share all the applicable information that you have with SSA. Have you secured those permissions and shared your information with them? In the cases where beneficiaries admitted to fraud do you have video or audio records of these admissions and have you provided these to SSA?

**Answer:**

The Privacy Act, which governs dissemination of personally identifiable information about individuals, does not cover GAO.<sup>5</sup> GAO is required to maintain information in a way that "prevents unwarranted invasions of personal privacy."<sup>6</sup> However, we do not believe that disclosure of federal employees and commercial drivers' license holders to the Social Security Administration in order to verify eligibility for disability payments would constitute an unwarranted invasion of personal privacy. As such, GAO provided SSA with a listing of the federal employees and commercial drivers' license holders on August 18, 2010. We do not have video or audio records of any admissions of fraud. We did not record, either by video or audio, during any of our interviews with beneficiaries.

(1923000)

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<sup>5</sup> U.S.C. § 552a(a)(1).

<sup>6</sup> 31 U.S.C. § 716(e)(2).



**SOCIAL SECURITY**

The Commissioner

September 28, 2010

The Honorable Carl Levin  
Chairman  
Permanent Subcommittee on Investigations  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your August 31, 2010 letter requesting additional information to complete the record for the hearing, *Social Security Disability Fraud: Case Studies in Federal Employees and Commercial Drivers Licenses*. This hearing was held on August 4, 2010. Enclosed you will find the answers to your questions, as well as the answers to Senator Coburn's and Senator McCaskill's questions.

Our response to question 36 contains materials that we may release to Congress under subsection (b)(9) of the Privacy Act of 1974. As this information could not otherwise be released to the public because the data could be used to identify living people, we suggest that it not be released further.

I hope this information is helpful. If we may be of further assistance to you or your staff, please do not hesitate to contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

I am sending a similar letter to Senator Coburn.

Sincerely,

Michael J. Astrue

Enclosures

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

Permanent Subcommittee on Investigations

**EXHIBIT #5**

**SOCIAL SECURITY**

The Commissioner

September 28, 2010

The Honorable Tom Coburn, M.D.  
Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Senator Coburn:

Thank you for your August 31, 2010 letter requesting additional information to complete the record for the hearing, *Social Security Disability Fraud: Case Studies in Federal Employees and Commercial Drivers Licenses*. This hearing was held on August 4, 2010. Enclosed you will find the answers to your questions, as well as the answers to Senator Levin's and Senator McCaskill's questions.

Our response to question 36 contains materials that we may release to Congress under subsection (b)(9) of the Privacy Act of 1974. As this information could not otherwise be released to the public because the data could be used to identify living people, we suggest that it not be released further.

I hope this information is helpful. If we may be of further assistance to you or your staff, please do not hesitate to contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

I am sending a similar letter to Senator Levin.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. Astrue'.

Michael J. Astrue

Enclosures

SOCIAL SECURITY ADMINISTRATION BALTIMORE, MD 21235-0001

**SUPPLEMENTAL QUESTIONS FOR THE RECORD  
FROM SENATOR CARL LEVIN**

1. **Provide the status of SSA's efforts to analyze and expand its data matching processes designed to detect beneficiaries who may be receiving disability payments fraudulently or improperly.**

We are actively looking at ways to expand our data matching processes to detect beneficiaries who may be receiving disability payments improperly. Among other things, we are considering the cost-effectiveness of matches to Federal payroll data and pursuing an internal match of SSA payroll data.

Continuing Disability Review Enforcement Operation (CDREO) Predictive Model

We developed a CDREO predictive model that uses available data to predict the likelihood that a beneficiary has a large overpayment. We used historical data from our Disability Control File (DCF), our Master Earnings File, and our Master Beneficiary Record to develop statistical models that describe beneficiary characteristics that are associated with a large overpayment amount. From these models, we generate a score for beneficiaries with likely overpayments. We use this score to determine the highest probability of a large overpayment.

Our preliminary tests are encouraging. Seventy percent of the cases that the model identified as being most likely to have significant overpayments did, in fact, have large overpayment amounts. If we had worked the same number of cases at random without using modeling, we would have identified only about 25 percent with large overpayment amounts. Targeting our resources to the most significant cases will provide us with a higher return for our efforts.

We are currently working with our New York Regional Office (NYRO) to pilot our predictive model on the latest CDREO. We plan to evaluate the costs and the benefits of our predictive model by late summer 2011 and make a decision shortly thereafter.

Substantial Gainful Activity (SGA) Early Warning System

The NYRO proposed a pilot project that uses both our administrative records and the Office of Child Support Enforcement (OCSE) data to identify whether a Social Security Disability Insurance (SSDI) beneficiary is performing SGA. Using this data allows us to identify SGA earlier than we could using our CDREO process. This pilot differs from our previous assessment of OCSE data in that it would use our administrative data in combination with OCSE data to reduce the number of unproductive cases, thus potentially increasing the return on investment.

The NYRO would match data from several online systems, including our DCF and the OCSE National Directory of New Hires to screen SSDI beneficiary records for unreported work activity. The process identifies those beneficiaries in current pay status whose records



indicate that they earned more than \$1,000 after disability had begun and for whom we had not begun a work continuing disability review (CDR).

The NYRO tested the process on a random sample of 3,000 SSDI beneficiaries residing in New York or New Jersey and identified 150 records (five percent of the total). The next steps in the project include identifying a 1 percent random sample from SSDI beneficiaries residing in New York or New Jersey, identifying the number of cases that meet the criteria, working the cases identified, and performing a cost-benefit analysis.

#### Work Number Data Agreement

The Work Number is a commercial wage verification firm that maintains an up-to-date database for companies who subscribe to the service and provides a quick and efficient means for us to verify wages. We use the Work Number and other wage verification companies to verify work activity, eliminating the time consuming process of direct employer contacts. We generally receive the worker's gross wages for the twelve most recent pay periods, total wages for the past two years, and the number of hours worked.

We currently use the firm's free fax service, which provides responses in 7-14 days. We are looking into moving to the Work Number's fee-for-service system, the Express Service, which provides immediate responses. We are in the early stages of investigating the use of the Work Number Express Service to improve our work CDR process and for other program integrity efforts.

#### Workers' Compensation Data Agreements

In accordance with section 224(h) of the Social Security Act, we are pursuing an agreement with the Department of Labor to develop a computer data-matching program to share data on beneficiaries who are receiving Federal Employees Compensation Act benefits. We currently receive information from the Office of Personnel Management for those beneficiaries who receive disability retirement.

We continue to search for other avenues for information gathering. Obtaining accurate and timely data regarding receipt of Workers' Compensation information is critical to reducing improper payments to our disabled beneficiaries.

#### **2. Provide legislative recommendations for reducing the complexity of the back-to-work laws currently in effect for the disability program.**

We are developing a proposal to simplify the work incentive provisions in the SSDI program. One of the issues that we are currently analyzing involves the interaction between work incentives, Medicare eligibility, and provisions of the new Affordable Care Act. We will provide our legislative recommendations to you as soon as the Administration approves them. We look forward to working with Congress on improving the SSDI program from both a beneficiary ease-of-understanding and a program stewardship perspective.

**SUPPLEMENTAL QUESTIONS FOR THE RECORD  
FROM SENATOR CLAIRE McCASKILL**

1. **It was evident from the testimony presented during the hearing that there is disagreement between SSA and GAO regarding the extent of fraud and improper payments. It would appear that some of the disagreements are simply regarding methods and detailed definitions. Stepping back from details, one of the general take-aways of the GAO report was that SSA does not seem to be availing itself of some relatively "low-hanging fruit" in terms of additional data sources. These data sources vary in value, complexity and how difficult they are to obtain. Would you agree that additional data sources are available that you have not been using and that these sources could be valuable in finding improper payments and fraud?**

We agree that there are data sources that we have not been using and that these sources could be valuable in finding improper payments. As your question implies, we must evaluate the data sources to determine whether the value of the information we would get from them is worth the cost of obtaining them and configuring the information to our systems. We are looking into the value of a match to Federal payroll data. In addition, we are conducting pilot projects that make use of other data sources to identify improper payments and fraud.

2. **In generating models that would be capable of identifying cases that should not be receiving benefits there are two opportunities to get it right; the first and best opportunity is at the approval process, while the second is via review after a beneficiary has begun receiving benefits. While you mentioned that you have to accept any licensed doctor's approval, there are certainly some doctors that might raise suspicions based on the number of disability claims they are part of, how many of the cases they are involved in turn out later to be fraudulent, etc. Could you provide an outline of how you use computer algorithms on the front end to help disability offices and administrative law judges (ALJs) make their determinations and/or determine which cases merit extra scrutiny as well as how they work? If there are similar algorithms on the back end after benefits are being distributed that are used to determine which cases to re-examine how do these programs work and are the two modeling results (pre and post-award) connected? Any modeling is improved by the amount of information that is provided, so it is important that we don't have multiple modeling programs operating in isolation of each other. Are you integrating all front-end and back-end modeling so that they inform each other?**

We do integrate our front-end and back-end modeling. On the front-end, we use a number of variables (alleged impairment, age, medical sources, etc.) to help predict which cases are most likely to be quick allowances.

When performing medical continuing disability review (CDR) models, we link the front-end and back-end disability processes by using data that reflect the decisions resulting from both processes. In the medical CDR model, for example, we employ a number of variables to reflect the level of entitlement and stage of the five-step sequential evaluation process used in the initial disability determination process. Using these data in conjunction with post-entitlement demographic and medical-related information allows us to predict likely medical improvement to efficiently prioritize full medical CDRs. Much of the same type of information (such as primary and secondary impairment) used in the medical CDR models is used in the front-end models; however, the front-end models typically rely on the claimant's alleged impairment and physical/mental limitations. In contrast, the back-end medical CDR review models rely on the primary and secondary impairment, in conjunction with other medical information that we collect at the time of the initial disability determination and/or the last medical CDR.

In the past, when we have sufficient data, we have tested additional variables used in the front-end of the disability process (most recently, presumptive disability indicators) but have not found that these indicators improve the overall performance of the medical CDR model. As part of our ongoing evaluation and research, we will continue to test our front-end models to determine if additional data can improve the performance of our back-end models.

**3. Many agencies like the Centers for Medicare and Medicaid Services (CMS) use third-party recovery contractors to perform automated reviews and subsequent recovery of improper payments. What is your view on the use of internal SSA resources versus external contractors to better locate and recover improper payments?**

While we currently have a robust system of internal controls for our administrative payments, we will consider using a contractor to perform recovery auditing of our administrative payments. We are somewhat skeptical about taking that route based on past experience. We used the services of a professional recovery-auditing firm on a contingency fee basis to review our administrative payments, and the firm determined that it was fiscally disadvantageous for them to continue the contract based on the minimal number of improper payments it found.

After we re-evaluate the options for recovery auditing of our administrative payments, we will report to the Office of Management and Budget (OMB) on the results of our review. In accordance with OMB guidance, we will initiate, consistent with our responsibilities under the Improper Payments Elimination and Recovery Act of 2010, recovery auditing if our analysis identifies a positive return on investment.

**SUPPLEMENTAL QUESTIONS FOR THE RECORD  
FROM SENATOR TOM A. COBURN, M.D.**

1. **Case Study No. 2 is a Transportation Safety Administration screener that SSA approved for DI payments in 1995 for mood and anxiety disorders, but began full-time federal employment in 2003. How is it possible for someone to work a full-time federal job for six years and also collect disability payments?**

This case is unusual and must be viewed in the context of the totality of the agency's workload. Beginning in late fiscal year (FY) 2008, we began to experience a significant increase in initial disability applications due to the downturn in the economy, and disability claims continue to rise to unprecedented levels. The same employees who handle the post-entitlement issues (like return to work) are responsible for handling new applications, and, as important as we know program integrity is, the workload to make initial payments to beneficiaries must take precedence.

Although the Internal Revenue Service (IRS) match identified that the beneficiary had earnings indicative of work, we could not verify the work. Reported earnings require further investigation, and according to the Computer Matching and Privacy Protection Act, we cannot take action based solely on the fact that the beneficiary was identified by the IRS match. Also, in many cases where a beneficiary is working, that work does not preclude the beneficiary from receiving benefits.

Our preference is to get the information directly from the beneficiary if possible and if not, to get the beneficiary's consent to contact his or her employer. This policy recognizes that the beneficiary is often the most efficient source of earnings information. We respect a beneficiary's wishes to keep his or her beneficiary status confidential, as long as we can obtain the evidence we need.

In order to determine whether a beneficiary is performing substantial gainful activity (SGA), we must obtain evidence of monthly earnings amounts. Our policy requires us to make reasonable efforts to obtain preferred evidence of monthly earnings from the beneficiary or the employer. If we are unable to obtain preferred evidence of earnings, we can use secondary evidence of earnings, such as the earnings posted to our records, to make work continuing disability review (CDR) determinations.

When we attempted to verify the work activity in this case, the beneficiary was uncooperative and refused to allow us to contact her employer. Instead of following our policy of using secondary evidence of earnings, we continued to try to obtain verification and did not take action to adjust her benefits (see Question 2 for current status).

2. **In your testimony, you state that GAO did not conclusively prove fraud in any of the 20 cases. At what point would this individual be considered to have committed fraud:**
- a. **When she returned to work and failed to report it to SSA?**
  - b. **When she failed to return the Work Continuing Disability Review in 2005?**
  - c. **When she accepted an increase in benefits in 2005, 2006, and 2007 based on her current work without contacting SSA?**
  - d. **When she called SSA and asked them not to call her employer for a work review, but failed to complete the Work Activity Report?**
  - e. **When she accepted the \$250 stimulus check?**
  - f. **When she was videoed by GAO working as a TSA screener?**
  - g. **When she personally admitted to GAO that she was working full time and also receiving disability benefits.**

My testimony referred to legally being able to prove fraud and considered that a summary of alleged information from a case file does not always reveal the entire story. The Social Security Act (Act) identifies various types of fraud that may occur in connection with the receipt of benefits under Titles II and XVI of the Act.<sup>1</sup> Under the Act, fraud can occur either through affirmative acts, such as the falsification of a document, or by knowingly failing to report an event that affects the initial or continued right to the payment received. But to prove fraud under the Act, the prosecution must show *fraudulent intent* on the part of the beneficiary – not just the intent to deceive, but also the intent to receive greater payment from the Government as the result of the deception.<sup>2</sup> The standard to prove fraud under the Act is higher than for fraud prosecuted under Title 18 of the United States Code, which requires “merely the intent to deceive or mislead.”<sup>3</sup>

When we become aware of a case of potential fraud, we refer it to our Office of the Inspector General (OIG). The OIG’s Office of Investigations (OI) conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement in our programs and operations, including wrongdoing by applicants, grantees, or contractors perpetrating criminal activity against our programs and operations. When an OI investigation proves to have merit for potential Federal criminal prosecution for fraud, OI special agents then refer the case to the appropriate United States Attorney’s Office. Ultimately, the decision of whether to prosecute any case of potential fraud rests with the U.S. Attorney’s Office.

With regard to the beneficiary identified in Case Study No. 2, OIG’s investigation of potential fraud is ongoing, and we will allow that process to work.

<sup>1</sup> See Sections 208(a)(1)-(8) and 1632(a)(1)-(4) of the Act, 42 U.S.C. §§ 408(a)(1)-(8) and 1383a(a)(1)-(4).

<sup>2</sup> *United States v. Phythian*, 529 F.3d 807, 812 (8th Cir. 2008); *United States v. Phillips*, 600 F.2d 535, 536 (5th Cir. 1979).

<sup>3</sup> *United States v. Lichenstein*, 610 F.2d 1272, 1277 (5th Cir. 1980).

3. **When should the individual in Case Study No. 2 have reported that she returned to work?**

Beneficiaries should report at the point they return to work and subsequently whenever a change in work activity occurs.

4. **SSA states it performs computer matching with IRS data on reported earnings. The individual in Case Study No. 2 returned to work in 2003, so for at least six years, there should have been a match with IRS data. Please explain how this beneficiary's earnings went unnoticed for six years.**

Please refer to our response to Question 1.

5. **The TSA worker in Case Study No. 2 requested that SSA not contact her employer.**

- a. **When a disability beneficiary states that they do not want SSA to contact their employer - as the TSA agent did here - why would SSA comply with such a request?**

Please refer to our response to Question 1.

- b. **Why would SSA not try to determine if the individual was working?**

Please refer to our response to Question 1.

- c. **Would her lack of response regarding her work report be a red flag that this person may be defrauding the system?**

Not necessarily. A beneficiary may not want his or her employer to know about his or her disability status for fear of being stigmatized or losing the employment opportunity. In addition, a beneficiary may have practical reasons that explain his or her reluctance. For example, the beneficiary may not have proof of earnings readily available, or may be incapacitated due to illness or even confined in a hospital. The beneficiary may not have received our request for earnings information because we have incorrect address information, or the beneficiary may not understand the request due to his or her impairment. We make every effort to treat our beneficiaries with respect and do not automatically assume that they intend to defraud the government.

- d. **Why is a person that refuses to comply with rules of the disability program allowed to remain on the rolls for years and continue to receive disability payments?**

As explained in our response to Question 1, we do not have sufficient resources to handle all of this work timely. We agree that we should have acted more quickly.

e. **Why did SSA not perform a medical CDR on this beneficiary?**

The Act prohibits us from initiating a medical CDR based solely on work activity for any beneficiary who has been receiving benefits for at least 24 months. We initiated a regularly scheduled medical CDR in January 2007. The beneficiary did not respond to several requests for information, and we subsequently suspended her benefits for not cooperating with us.

6. **There does not appear to be any consequences for getting caught defrauding SSA. What were the consequences, if any, for the TSA employee when GAO caught her?**

Our OIG is currently investigating these allegations for possible fraud. If OIG finds *prima facie* evidence of fraud, it will refer the case to the Department of Justice for possible criminal prosecution.

7. **For Case Study No. 14, SSA placed the beneficiary on a repayment plan that required the individual to pay \$20 per month for 130 years, beyond the individual's life expectancy.**

a. **How is this effective means of collecting payments?**

When a person is not receiving benefits and cannot refund the full overpayment in a single payment, we attempt to negotiate a repayment schedule that would permit recovery in one year. If that is not possible, we try to negotiate a schedule that would permit recovery within 36 months. If we cannot get an agreement that permits recovery within 36 months, we negotiate a schedule the debtor can manage, but at least \$10 per month. We do this because any agreement to repay benefits is more productive than no agreement at all. An agreement such as this one, though, is generally our last resort.

If a debtor defaults on the agreement, we refer qualified debts to the Department of the Treasury for collection via the Treasury Offset Program (TOP), where Treasury may recover the debt through forced collection methods such as Tax Refund Offset (TRO) and Federal Salary Offset (FSO).

In this case, the debtor failed to make two monthly payments, and we referred the debtor to Treasury in April 2010. In June, we received more than \$4,000 via TRO. This debt is also subject to collection through FSO. We believe that Treasury has issued an FSO notice, which gives the debtor 30 days to protest the offset.

After the due process period, if the debtor has no other higher priority Federal debt, we will begin to collect the debt by offsetting 15 percent of the debtor's disposable pay. Recovery via FSO does not prevent Treasury from applying future TRO and other forced collections methods.

**b. How often do unrealistic payments plans like this occur?**

We do not collect this type of data, but extended payment agreements such as this one are generally our last resort.

**c. Would this individual be able to return to the rolls, even if they were still repaying their debt?**

Yes. Debt does not preclude entitlement to benefits; however, if a person with an overpayment returns to our rolls, we will recover the outstanding amount.

**d. How can SSA guarantee that in the future people like this do not receive both federal disability payments and federal wages? Please explain.**

In certain situations, a person can legitimately receive both disability benefits and Federal wages. In fact, Congress has worked with us to encourage beneficiaries to return to work. When we learn that a beneficiary has wages, we verify what the wages represent and when they were earned, determine whether the beneficiary continues to be entitled to benefits, and provide due process prior to stopping benefits. In addition, during the appeal period, a beneficiary can continue to receive benefit payments after we have determined that he or she no longer meets eligibility requirements if he or she timely appeals that decision.

**e. Given that recipients of DI and SSI are individuals that face serious medical and financial challenges, is it realistic to think that the government will ever get money it overpays to recipients back once it goes out the door?**

Yes. In FY 2009, we collected \$1.94 billion in DI and SSI program debt using a combination of internal and external collection methods. Historically, we recover 60 percent of overpayments over 10 years.

**8. There is a great deal of information available to SSA that collect on federal employees. How can the American taxpayer trust that SSA is able to properly police the disability program when it cannot even guarantee that federal employees are not taking advantage of the disability programs? Please explain.**

We take seriously our responsibility to protect and carefully manage the resources and assets entrusted to us. Overall, our employees are vigilant and effective stewards of our programs, and we believe the public's confidence in us is well founded. While the GAO went to some effort to identify a number of the most egregious cases in which people appear to have been inappropriately paid benefits, these cases are atypical and their number is small when compared to the number of claims we handle and benefits we pay.

As I testified at the hearing, we paid over \$2.4 trillion to retirement and survivors beneficiaries during fiscal years (FY) 2005-2009. In that same period, we paid \$490.6 billion to DI beneficiaries and \$218.6 billion to SSI recipients. The overwhelming percentage of payments was accurate. In FY 2009, 99.63 percent of all OASDI payments



were free of an overpayment, and 99.91 percent were free of an underpayment. In the SSI program, 91.6 percent of all payments were free of an overpayment, and 98.4 percent were free of an underpayment.

Clearly, because we pay out such huge dollar amounts, even a small error rate can result in significant incorrectly paid dollars. Therefore, even though our accuracy is high, we are working to make it better, particularly in the SSI program, and we are working to reduce improper payments on a number of fronts. In coordination with our OIG, we established 21 Cooperative Disability Investigation units across the country to investigate issues of potential fraud, resulting in \$1.4 billion in savings to our disability programs since FY 1998. We match earnings data with the IRS to help ensure that we properly evaluate work done by beneficiaries with disabilities, and we obtain over 36 percent of death notices electronically from States and other jurisdictions. In FY 2011, we plan to conduct 360,000 full medical CDRs and 2,422,000 SSI redeterminations. These two programs have high savings-to-cost ratios. Realistically though, given the complexity of our programs and requirements like providing due process, there will always be some incorrect payments. Our employees work hard to prevent errors and, given adequate resources, I am confident that they will continue to improve in this area.

**9. What confidence can Congress place in SSA to catch individuals employed by private companies when it cannot properly police federal employees? Please explain.**

Please see our response to Question 8, above.

**10. GAO investigators found that each of the 1,500 people they flagged for possible improper payments were both: (1) working for 12 months or longer and (2) collecting a disability check. Normally, these two things should not happen.**

As explained above, in certain situations, it is entirely appropriate for beneficiaries to both work and receive disability benefits. We provided information prior to and during the hearing to both subcommittee staff and GAO investigators regarding the work incentives within both the DI and SSI programs that allow some earnings to be disregarded from countable income when we make a determination of SGA. In addition, GAO looked for the most egregious cases and agrees that the cases it found are not representative.

**a. Can you give a plausible explanation for why these cases *may not* have been improper?**

The Act contains work incentive provisions that permit beneficiaries to remain eligible for SSDI or SSI benefits even when they work. These work incentives (which are described in more detail in response to Question 10b, below) may lower the amount of countable income of an SSDI beneficiary below the SGA level and reduce an SSI recipient's countable income to a level where the earnings do not effect eligibility or reduce the benefit amount.

b. **What work incentive(s) allows an individual to work more than a year at a full time job and still receive full disability payments?**

We have previously provided subcommittee staff and GAO investigators with materials explaining how a beneficiary may work while continuing to receive disability benefits. We have excerpted those materials below:

SSDI Work Incentives

- Trial Work Period (TWP): An SSDI beneficiary can test his or her ability to work without affecting benefits. If the beneficiary works for 9 months and earns over \$720 a month (in 2010) within a rolling 60-month period, we consider that the TWP is completed.
- Impairment-related work expenses: We will deduct from earnings the costs for certain items and services that are related to the disability and are needed in order to work.
- Subsidies and special conditions: Supports received on the job that result in the person receiving more pay than the actual value of the services performed.
- Unsuccessful work attempts: We disregard earnings from work attempts of 6 months or less that were stopped due to the impairment.

SSI Work Incentives

- Impairment-related work expenses – similar to SSDI above.
  - Blind work expenses: For SSI beneficiaries receiving benefits based on blindness, we exclude any earnings that are used to meet expenses needed to earn that income.
  - Student earned income exclusion: We do not count up to \$1,640 (in 2010) of monthly earnings (up to a yearly maximum of \$6,600 in 2010) of a student under age 22.
  - Plan to achieve self-support: We do not count any earnings an SSI beneficiary sets aside toward an approved plan.
- c. **Now that SSA has the list of the 1,500 federal workers located by GAO, in SSA's analysis of these individuals, did SSA find that *any* of the 1,500 cases uncovered by GAO were the result of fraud? Please explain.**

We identify and refer cases where fraud may be involved but we do not determine whether a beneficiary committed fraud. We recently received the list of 1,500 employees and have not yet completed our analysis. We will refer any potentially fraudulent activities to our Inspector General for further investigation and action.

- d. **Does SSA check federal salary data to determine if individuals are receiving disability payments improperly or fraudulently? Why or why not? Please explain.**

We review the earnings posted by all employers including the Federal government and self-employed persons through our annual match with IRS data.

Although GAO obtained employment data for other Federal agencies, the Privacy Act limits our access to this information. For us to obtain the same level of employment data, in accordance with the Privacy Act, we would need to establish a data sharing agreement with each individual Federal department or agency. Even to use our own employment data to match employment data against our beneficiary data, the computer matching provisions of the Privacy Act require us to establish a formal agreement with ourselves.

We are pursuing a matching agreement to review our own payroll data against our disability rolls. Additionally, we are considering the cost-effectiveness of implementing and managing potentially hundreds of matching agreements covering payroll data with other Federal agencies.

- e. **Does SSA require federal agencies to report when an individual on Social Security disability is hired? Why or why not? Please explain.**

We do not have legal authority to require that Federal agencies report when they hire a Social Security beneficiary. The Americans with Disabilities Act (ADA) limits what employers may ask employees regarding their medical condition and disabilities. Questions regarding an employee's status as a disability beneficiary could be wrongly construed as seeking information regarding the employee's disability.

- 11. According to GAO, an employee at your own agency was working full-time and also receiving disability benefits. SSA began providing benefits to the individual in 2003 for mood disorders and osteoarthritis. The individual began working for SSA in 2003 and did not notify SSA. SSA then increased her benefits based on her wages earned at SSA in 2007 and also sent her a \$250 stimulus check.**

- a. **What was your response when you first learned that someone at your own agency was getting disability payments and had been working at SSA for more than 12 months?**

Our first response was to investigate the employee's situation to determine if she properly reported her work activity, and was participating or had participated in one of the work incentives described above in response to Question 10b. As indicated above, the Act provides a number of incentives for disability beneficiaries to return to work.

After evaluating this case, we determined that the employee did not properly notify us of her work activity, but that she qualified for the return-to-work incentives set out in the Act. The employee participated in a nine-month TWP. During her TWP, while the

employee tested her ability to work, we still considered her disabled and eligible for SSDI benefit payments.

The employee's TWP ended in August 2008, after which she qualified for a three-month "grace period," during which SSDI beneficiaries receive benefit payments regardless of work or earnings at the SGA level. This "grace period" then begins the 36-month extended period of eligibility (EPE) that began in September 2008. During the EPE, the employee is not entitled to receive SSDI benefits for any month she works over the SGA level. In this employee's case, the EPE will run through August 2011. If the employee is working and has earnings at the SGA level at the end of her EPE, she will no longer be entitled to SSDI benefits. If she is not working at that time and is still medically disabled, she may be entitled to SSDI benefits.

Although we were disappointed that this employee did not report her work activity as the law requires, her case illustrates the challenges beneficiaries who return to work encounter. On the positive side, her case shows how the work initiatives established by Congress can help disability beneficiaries to return to the work force while providing a safety net for our most vulnerable population.

**b. How is it possible that this could even happen?**

Please see the response to Question 11a, above.

**c. How has SSA dealt with the individual in Case Study No. 8? Was this person removed from the disability program?**

The employee remains medically disabled. As explained in response to Question 11a above, her benefit payments are in suspense status while she completes her EPE, which will run through August 2011. During this time, we will continue to evaluate her work, earnings, and her benefit entitlement.

Additionally, we determined that we overpaid the employee by approximately \$5,000, and the employee agreed to an accelerated 13-month repayment schedule.

We emphasize that we cannot assume that an employee with an overpayment has violated the law. We must examine each case on its own merits.

**d. Is the individual still working at SSA, or anywhere else in the federal government?**

Yes, she is still working with us.

**e. If she no longer works at SSA, is she eligible to receive disability payments again?**

Please see our response to Question 11a, above.

**f. Is the individual in Case Study No. 8 currently receiving disability payments?**

No. As described in response to Question 11a, above, we have suspended her payments, in accordance with the terms of the EPE.

**g. Does SSA check to see if an individual is receiving disability payments before it hires that individual? If not, should it?**

We do not ask applicants if they are receiving disability payments. As mentioned above, the ADA and its implementing regulations limit what employers may ask applicants regarding their medical disabilities. Making generalized inquiries of applicants' disabled status could lead to claims that we are conducting medical inquiries of applicants in violation of the ADA.

At employee orientation, we do inform all new hires that if they are receiving disability benefits, they should report their work activity to us.

**h. Has SSA found other individuals working at SSA and receiving disability payments, whether proper, improper, or fraudulent?**

Yes, we know that some of our employees are receiving disability benefits. As mentioned above, we are exploring whether a data match with our beneficiary records and Federal payroll records might help us detect unreported earnings earlier, trigger work continuing disability reviews sooner, and reduce overpayments.

**12. GAO found that for fiscal years 2004-2008, the debt owed to SSA for overpayments of DI and SSI benefits reached \$10.7 billion. In SSA's comments to the GAO Report, it mentions a "number of proactive actions" SSA is taking to reduce improper payments in the programs. However, SSA defended its administration of the programs by stating that "overpayments are unavoidable because even if the beneficiary appears to be working over SGA, we cannot stop benefits until we have completed our development, made our determination, and provided due process."**

**a. Does the current system in place guarantee overpayments to individuals leaving the DI or SSI?**

No. Some beneficiaries timely report their earnings and have no overpayment. In many cases, however, overpayments are unavoidable. Delayed earnings reporting, our complex work incentives rules, and due process requirements often lead to overpayments.

Furthermore, beneficiaries have the statutory right to continue to receive benefits during our SGA reviews. If we continue paying benefits while reviewing a person's SGA, we may overpay the beneficiary, but we attempt to recover these overpayments.

**b. Does SSA find it acceptable that a government-run program guarantees overpayments?**

No. However, as explained above, some overpayments are unavoidable because of the complexity of our disability programs, and the limitations that many of our beneficiaries face. We strive for continued improvement in this area, but we must act within the law as Congress created it.

Also, please note that we make accurate benefit payments in the overwhelming majority of cases. Less than 2 percent of the approximately \$115 billion in Social Security disability payments made in FY 2009 were overpayments. We recognize that we must improve our overpayment reduction efforts. As stated in response to Question 1, our priority has been to focus on responding to the recent unprecedented influx of disability claims.

**c. What alternatives exist to the current system, which requires SSA to attempt to collect improper payments after it makes them?**

Our Access to Financial Institutions (AFI) project automates the verification of bank assets held by SSI applicants and beneficiaries. The President's FY 2011 budget includes funding to continue nationwide rollout of this important project.

We are also exploring initiatives to simplify our SSDI work incentive provisions. The likelihood of overpayments would substantially decrease if such provisions were easier for working beneficiaries to comprehend and had fewer complexities for us to administer.

We also see opportunities to make it easier for beneficiaries to report earnings to us, and for us to verify earnings and quickly adjust benefit amounts. In response to Question 14, below, we describe our efforts to expand telephone reporting, to create an option for internet reporting, and to take other efforts aimed at improving the process. We also are exploring ways to make greater use of earnings data to identify work activity sooner and to prevent beneficiaries from accumulating large overpayments.

We request your support in these endeavors and welcome future collaborative efforts on any legislative proposals that could help us simplify our programs.

**13. CBO recently estimated that the Disability Insurance Trust Fund would be exhausted by 2018.**

**a. What effect do these overpayments have on the Disability Insurance Trust Fund?**

Annual overpayments in the DI program for FY 2009 were \$1.7 billion—less than 1.5 percent of DI program outlays. In addition, we recover about 60 percent of DI overpayments over 10 years.

**b. What does SSA propose to deal with the exhaustion of the Disability Insurance Trust Fund?**

On solvency-related matters, such as your question, we defer to the Secretary of the Treasury, the Managing Trustee of the Social Security trust funds.

**14. Mr. Astrue states in his written testimony that "the complexity of [SSA's] disability programs leads to overpayments."**

**a. Should the process be changed so that overpayments are eliminated?**

Congress should consider ways to reduce overpayments by amending the current law. We have been working hard to do what we can to reduce overpayments by administrative action, but most of the possible significant improvements require statutory changes.

**b. If so, what process(es) does SSA suggest be implemented to remove, or at least limit, overpayments?**

We are examining our processes governing return to work, work CDRs, and earnings reporting, as we believe that these areas will provide us the most benefit in limiting overpayments.

We convened a national work CDR workgroup in January 2010 to discuss related work and administrative issues, consider options, and recommend improvements to the processing of work CDRs. Some of the recommendations from the workgroup and other sources that we put into place are:

- Dedicated staff to target the oldest cases—initially, cases over 365 days old, then a gradual reduction of the age threshold;
- Prioritized earnings alerts by amount of earnings and work cases with highest earnings to minimize overpayments;
- Improved communication between operational components; and
- Allocated additional staff resources to conduct work CDRs.

To improve the quality and timeliness of self-reporting earnings data, we recently implemented an automated monthly telephone wage reporting process to make it simple and more convenient for SSI recipients to report wages. The process uses both touch-tone and voice recognition technology to collect wage reports and automatically enters the wage data into the SSI system. Telephone wage reporting is more efficient than providing wage information through the mail or when visiting a field office, which requires manual entry of the earnings report. The telephone wage reporting system's dollar accuracy is high. We plan to extend this telephone wage reporting process to SSDI beneficiaries and to investigate methods to automate the posting of the wage information to SSDI records.

We also plan to establish an Internet website for disability beneficiaries to report their wages quickly and easily. Based on the results of electronic reporting through the SSI telephone wage reporting process, we expect these initiatives to help us reduce SSDI overpayments resulting from late reporting of earnings.

We are developing a statistical predictive model that identifies beneficiaries who are at risk of receiving high earnings-related overpayments. We plan to begin testing this model this fall. The predictive model will prioritize the alerts that we receive based on a variety of case characteristics, which allows us to prioritize our staff resources for enforcement actions, thereby reducing work-related overpayments.

We are developing a legislative proposal to simplify the work incentive provisions in the SSDI program. We will provide our legislative recommendations to you as soon as the Administration approves them. We look forward to working with Congress on improving the SSDI program to make it easier to understand for beneficiaries and to help us improve our stewardship of the program.

We would be happy to work with your staff to explore other ideas ways to prevent or limit overpayments.

**15. What percentage of overpayments in the DI and SSI programs are recovered annually? Please provide data for at least the past five years.**

We have listed in the table below overpayment recoveries as a percentage of our available debt for the past five years. Available debt is comprised of existing debt carried forward from prior years plus newly detected overpayments and any reestablished overpayments.

| Recoveries as a Percent (%) of Available Debt |       |       |       |       |       |
|---|-------|-------|-------|-------|-------|
| Fiscal Year                                   | 2005  | 2006  | 2007  | 2008  | 2009  |
| <b>DI Program</b>                             | 10.5% | 11.6% | 11.9% | 12.8% | 13.0% |
| <b>SSI Program</b>                            | 14.2% | 13.9% | 13.8% | 13.7% | 13.0% |
| <b>TOTAL</b>                                  | 12.7% | 12.9% | 13.0% | 13.3% | 13.0% |



**16. The \$10.7 billion in overpayments listed in Appendix III of the GAO report excludes "collections, waivers, and write-offs in each fiscal year."**

- a. **Does this mean that improper payments are actually much higher? If so, please provide the amount that includes "collections, waivers, and write-offs."**

We exclude collections, write-offs, and waivers from the total amount of overpayments because the Act allows us to forgive or eliminate these debts. If we did not exclude them, the total amount of overpayments at the end of FY 2008 would be approximately \$13.4 billion.

- b. **Exactly how much debt is waived or written off by SSA each year? Please provide data for at least the past five years.**

The table below shows our waivers and write-offs in the DI and SSI programs for the past five FYs.

| Waivers (\$ in millions)              |                |                |                |                |                |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|
| Fiscal Year                           | 2005           | 2006           | 2007           | 2008           | 2009           |
| DI Program                            | \$227.5        | \$286.6        | \$240.1        | \$241.8        | \$249.5        |
| SSI Program                           | \$154.0        | \$149.0        | \$123.3        | \$121.3        | \$130.2        |
| Write-offs (\$ in millions)           |                |                |                |                |                |
| DI Program                            | \$133.8        | \$209.2        | \$223.3        | \$262.2        | \$238.8        |
| SSI Program                           | \$209.8        | \$337.2        | \$261.7        | \$231.4        | \$260.8        |
| Waivers & Write-offs (\$ in millions) |                |                |                |                |                |
| DI Program                            | \$361.3        | \$495.8        | \$463.4        | \$504.0        | \$488.3        |
| SSI Program                           | \$363.8        | \$486.2        | \$385.0        | \$352.7        | \$391.0        |
| <b>TOTAL</b>                          | <b>\$725.1</b> | <b>\$982.0</b> | <b>\$848.4</b> | <b>\$856.7</b> | <b>\$879.3</b> |

**17. According to SSA, for four of the 20 case studies, the beneficiary affirmatively contacted SSA and requested payments be stopped, but payments continued.**

- a. **Can an SSA caseworker immediately stop benefit payments when a beneficiary requests disability payments cease?**

Yes. A beneficiary may request to suspend benefits to avoid an overpayment. To suspend benefits, we must obtain a signed statement from the beneficiary documenting the request.

- b. **If it is a due process issue, isn't a voluntary request from the beneficiary for payments to stop enough? If not, what is required?**

If a beneficiary requests to have benefits suspended, we do not need to send a due process notice.

- c. **Should SSA be able to suspend an individual's disability benefits upon a request by the beneficiary?**

Please see our response to Question 17a, above.

- 18. In your response to GAO regarding the 20 investigated cases, you state "our methods are working....we had already detected overpayments for half of the 20 cases handpicked for this review. Our existing process identified these cases and we had already computed overpayment amounts." Do you believe identifying overpayments years later that result in tens of thousands of dollars a system that "worked?" Please explain.**

We share your concerns about the length of time we take to process these overpayments, and we are looking into ways to detect earnings and complete work CDRs in a timelier manner given the constraints of annual IRS reporting. Nonetheless, our computer matches with IRS do detect unreported earnings. Furthermore, as mentioned above, we continue to evaluate our work processes and have taken actions to improve the timeliness and accuracy of our work CDR cases, and self-reported earnings data.

- 19. In several of the cases highlighted by the GAO report, SSA sent notice to the beneficiary that they were no longer eligible to receive benefit payments, but the payments still continued resulting in tens of thousands of dollars in overpayments. Why did payments continue when SSA said they would stop?**

Payments continued because some of our caseworkers did not follow proper procedures.

- 20. You state in your written testimony that "[b]eneficiaries who fail to report work activities are a significant source of errors...." Further, SSA acknowledges that beneficiaries rarely self-report work or medical improvement for fear of losing their benefits. Yet, your testimony makes much of the new ways SSA is developing for beneficiaries to self-report through an automated telephone wage reporting system and a website.**

We did not say that beneficiaries rarely report work. Rather, beneficiaries who fail to report work activities are a significant source of errors in calculating SGA, which leads to overpayments.

- a. **Why is SSA spending funds to develop these programs when it acknowledges that beneficiaries do not use them?**

We are developing these programs because they help us reduce overpayments. Based upon a previous study of the SSI program, the dollar accuracy of reported wages using telephone wage reporting was 92.2 percent, compared with the 75.5 percent dollar accuracy of the wage estimates received through other means. We anticipate similar success in reducing SSDI overpayments. We hope to increase

reporting compliance by providing SSDI beneficiaries with an easier and more efficient means of reporting their wages, thus reducing improper payments due to late reporting.

**b. Is self-reporting the proper way to ensure against overpayment and fraud?**

Timely self-reporting of work by beneficiaries is the best way to ensure against overpayments. All other methods of detecting unreported earnings necessarily involve a lag between the time the work activity was performed and when we learn of the earnings, because it takes us time to obtain this information from other sources.

**c. How can SSA rely on beneficiaries to self-report work and medical improvement when beneficiaries rarely self-report for fear of losing their benefits?**

We utilize beneficiary self-reporting because this is the most easily obtainable source of information we have. We also recognize that many beneficiaries are not intentionally attempting to mislead us. Our work rules are complex and difficult to understand. Therefore, we do not rely solely on beneficiary self-reporting in reporting earnings or medical improvement. We use information reported by beneficiaries, information from data matches and secondary sources, and our CDR process to verify the data provided by the beneficiary.

We are reviewing our publications about disability and work, and we will clarify our instructions about reporting responsibilities. We will also provide additional information about when, where, and how to report work.

We do not ask beneficiaries to make a self-determination about disability, and we do not rely solely on self-reporting to detect potential improper payments or to ascertain continued program eligibility.

As we explained to your staff at our July 12, 2010 briefing on medical CDRs, the CDR mailer form is designed as a screening device to avoid unproductive and costly full medical reviews. We use the CDR mailer form in conjunction with our predictive CDR models to confirm those cases for which it is not cost effective to initiate a full medical CDR due to the extremely low likelihood of medical improvement. In addition, we select a large number of mailer cases for integrity review where we perform a full medical review even though the predictive models and mailer responses indicate that a deferral would be proper.

Statistical analysis on hundreds of thousands of CDR mailers and our large integrity samples indicate that our predictive analytics are extremely effective in screening out unproductive medical CDRs. Our research shows that when disabled beneficiaries medically improve, rather than giving us false answers, they simply fail to complete and return the CDR mailer. When the beneficiary fails to return a complete CDR mailer, we automatically initiate a full medical review CDR.

**21. What are the root causes for the agency's high improper payment amounts and what needs to be done to remedy these causes?**

The major causes of OASDI improper payments are SGA, government pension offset, earnings errors, computation errors, and workers' compensation offset. For SSI, the major causes are financial accounts, wages, living arrangements, and in-kind support and maintenance. We have a number of initiatives in place to address these issues.

For OASDI, our initiatives include:

- Utilizing the Office of Child Support Enforcement (OCSE) New Hire Database on a query basis to detect unreported work.
- Using the eWork system to track and prioritize the processing of work CDRs.
- Expanding the use of predictive modeling to track and prioritize the processing of work CDRs.
- Concentrating review on error-prone cases involving workers' compensation.
- Implementing the Earnings Alert Project to help identify earnings mistakenly omitted from a beneficiary's record.

For SSI, our initiatives include:

- Implementing a process that will enable electronic verification of amounts held in an SSI applicants'/recipients' bank accounts and detect the presence of liquid resources in undisclosed accounts.
- Significantly increasing the number of SSI redeterminations performed each year.
- Using *all* available information regarding recipient earnings, including information available from OCSE and other sources.
- Utilizing a new wage-reporting system that will allow working SSI recipients to report earnings to us by phone.

Our response to Senator Levin's Question 1 describes a number of ways we are trying to expand our data matching processes.

**22. The GAO determined that 62,000 individuals in 12 states were issued CDLs after SSA determined the individual was disabled. Given the fact that federal regulations require individuals with active CDLs to go through a medical exam every two years, should SSA check with states to see if individuals on Social Security disability have active CDLs?**

- a. **Do you think that it would be useful for the SSA to do a computer match to determine if a disability recipient is either driving commercially or opening a transportation business? Please explain.**

Based on the GAO report, we do not think that it would be useful to do a computer match to determine if a disability recipient has a CDL or is listed as owner of a transportation business. A person with a mental impairment or a non-obvious physical impairment might be able to obtain a CDL, while still being disabled under the Act. GAO looked at

the possibility of conducting such matches but did not recommend doing so in its report. We discussed this issue with GAO staff, and they agreed that these data do not contain earnings information and are not dispositive proof of fraud.

The GAO report acknowledges that merely holding a CDL does not mean a beneficiary is driving commercially or engaging in SGA. Further, beneficiaries shown as owning a transportation business may have only a passive interest in the business. GAO acknowledges that we would have to investigate separately each instance where a beneficiary has a CDL and thus does not recommend such a computer match.

- b. **How is it possible for a person to be considered medically competent to hold a CDL, yet unable to perform "any job in the national economy (the SSA disability standard)?"**

The medical criteria and documentation required for a CDL are different from that required to meet the definition of disability. We evaluate a person's ability to perform SGA and consider impairment related work expenses, subsidies and special conditions, and other information when evaluating whether a person meets our definition of disability. We provide additional information about SGA in our response to Question 23.

23. **Assuming that it met all financial requirements, would driving a commercial vehicle or opening a transportation business constitute Substantial Gainful Activity (SGA)?**

The determination of SGA is a complex process. Driving a vehicle for a day or two a month does not necessarily constitute SGA. Signing the documents to open a business does not necessarily constitute SGA. Below is information regarding the SGA determination process that we included in several briefings with subcommittee staff and shared the information with GAO investigators:

#### SGA

SGA means the performance of significant physical and/or mental activities in work for pay or profit or in work of a type generally performed for pay or profit, regardless of the legality of the work.

- Work may be "substantial" even if performed on a part-time basis, or if the person does less, is paid less, or has less responsibility than in previous work.
- Work is "gainful" if it is the kind of work usually done for pay, whether in cash or in kind, or for profit, whether or not a profit is realized.

We use SGA as a factor to determine initial eligibility for both Social Security Disability Insurance (SSDI) and SSI, as well as to decide if disability continues for SSDI after completion of the trial work period (TWP). We do not use SGA for initial eligibility to SSI based on blindness.

Evaluation of SGA

After we determine monthly gross earnings, we apply applicable work incentives. We are only concerned with income that represents the actual value of work performed as a result of the person's own productivity. We then use the SGA earnings guidelines to evaluate the countable earnings.

Generally, countable earnings averaging over \$1,000 a month (in 2010) demonstrate the ability to perform SGA. For blind persons, countable earnings averaging over \$1,640 a month (in 2010) generally demonstrate SGA for SSDI.

We have different SGA development criteria for employed and self-employed beneficiaries:

- For employed beneficiaries, we begin with gross earnings and apply any applicable deductions (e.g., subsidy, impairment related work expense, etc.) to obtain the countable income that we compare to the earnings guidelines.
- For self-employed beneficiaries, we evaluate work activity using three tests. Has the beneficiary rendered services significant to the operation of the business and does he or she receive significant income from that business because of those services? If not, we then determine if the beneficiary's hours, skills, and duties are comparable to individuals in the community engaged in similar activities. If we do not find SGA from tests 1 or 2, we consider test 3, which is a determination of worth of work. Under test 3, if a beneficiary's work activity is clearly worth more than the SGA earnings guidelines, we determine that the work is SGA.

For both employed and self-employed beneficiaries who have received SSDI benefits for at least 24 months, we apply only the countable income test. Under the countable income test, we compare the beneficiary's countable earnings (gross earnings minus any applicable work incentives) to the earnings guidelines. If the countable earnings are above the SGA amount, we find that the beneficiary has engaged in SGA.

Benefit Eligibility Based on SGA

If an SSDI or SSI claimant's work is over SGA, the definition of disability is not met and benefits are denied.

When an SSDI beneficiary returns to work, he or she will receive full, unreduced benefits for at least nine months of work and earnings. This is the TWP. After the TWP, we will evaluate earnings for SGA to determine if disability continues. This is a work continuing disability review (CDR).

When an SSI beneficiary returns to work, we are not concerned with SGA. We count income and earnings when received (after allowable deductions) to determine the monthly payment amount. The countable income is subtracted from the Federal Benefit Rate

(\$674 in 2010) to calculate the monthly payment amount. An SSI beneficiary may go in and out of pay status based on countable income. An SSI beneficiary whose payment is reduced to zero because of earnings will retain eligibility for SSI and Medicaid provided his or her disability continues and earnings are below a State threshold amount. State thresholds vary between a low of \$23,981 in Alabama to a high of \$54,815 in Connecticut.

- 24. States would likely be interested in the fact that an individual holding a CDL applied for disability. For example, in Case No. 7, the Texas-based beneficiary claimed to have a back disorder and be "on pain medication for life." Yet, he has a CDL and had two roadside inspections in 2008 in Florida and Texas. Would it be possible for SSA to exchange information with states and collect driver's license information at the time a person applied for disability?**

As mentioned above, the Privacy Act provides that Federal agencies may collect and maintain information about persons only when it is relevant and necessary to accomplish a purpose of the agency required by statute or by Executive Order of the President. (5 U.S.C. § 552a(e)(1)) Therefore, we cannot collect driver's license information (including commercial license information) on *all* disability applicants. For most of them, this information would not be relevant and necessary to determining their entitlement to benefits.

We are permitted to collect from third parties any information that is relevant or necessary to assist us in determining a person's entitlement to or continued entitlement to benefits when the information is needed 1) to establish the validity of evidence or, 2) to verify the accuracy of information presented by a claimant or beneficiary. It may be possible under this provision to seek additional information from State motor vehicle agencies (MVAs) in individual situations in which the specific disability allegation warrants it.

There are also some general privacy concerns related to sharing our disability data with MVAs. The Privacy Act permits us to disclose a record only when the use of the record is compatible with the purpose for which it was collected. Thus, for us to share a disability record with DMVs, the DMVs must have a similar use for the data as we do when we collect it. We may share disability records with another agency only if its mission is similar to our health and income maintenance program purpose.

- 25. Please explain why SSA designed the AERO computer system to automatically increase a beneficiary's wages, but did not equip the same system to acknowledge the beneficiary is working?**

The Automated Earnings Reappraisal Operation (AERO) is designed to pay an SSDI beneficiary based on that beneficiary's earnings record, in accordance with the provisions of the Act. We run the AERO twice a year using data from the Master Earnings File (MEF). The AERO detects the presence of new earnings and calculates new monthly benefit amounts.

A related operation, the Earnings Enforcement Operation, reviews a beneficiary's earnings record and identifies disabled beneficiaries who have earnings during a period of disability.

This system produces alerts for work CDRs to determine whether these beneficiaries remain entitled to payment. We run the Earnings Enforcement Operation three times a year using data from the MEF (i.e., the same source data used by the AERO).

Prior to 1995, the AERO computed appropriate payment increases for disabled beneficiaries but held the increase until a technician took action to release it. At that time, we changed the AERO to allow release of the increase immediately because studies showed that a majority of disabled beneficiaries were properly due the increased benefits and would have otherwise waited (often for many months) to receive the benefit increase.

We are considering what business process and system changes we can make to the AERO and the Earning Enforcement Operation systems to support timely increases in benefits in accordance with the Act while ensuring that we more timely identify and handle work CDR alerts.

**26. According to the latest SSA data, 31.1 percent of individuals (the largest diagnostic group) are on disability for mental disorders (excluding the developmentally disabled).**

**a. Does SSA monitor these individuals differently than individuals with physical disabilities?**

Yes. As we discussed in our meeting with your staff on July 12, 2010, a beneficiary's primary impairment is only one of many characteristics we consider in monitoring a case, along with age, length of time on the rolls, work history, etc.

As described above, we have developed predictive models to determine when to initiate a medical CDR. We base these models on several million observations of known CDR outcomes for medical CDRs completed since FY 1998. Given the historical outcomes, we know that certain impairments are more likely to improve medically. For example, we know that beneficiaries with mental retardation are less likely to improve medically than beneficiaries with other mental impairments. Our models recognize this fact and identify these beneficiaries for full medical CDRs less frequently. In contrast, beneficiaries with both psychotic and non-psychotic mental impairments are more likely to be subject to a full medical review than to a CDR mailer. They are also subject to review more frequently.

**b. If not, should SSA monitor these individuals differently? Please explain.**

Please see our response to 26a above.



- 27. SSA's methods for determining if an individual returned to work and suspension of payments is conducting CDRs for DI and redeterminations for SSI. However, for two of the cases in the GAO report (Nos. 1 and 12), SSA completed work CDRs, determined payments should stop, but failed to stop the payments. Why did this happen? Is this a systemic problem?**

Our caseworkers did not follow proper procedure in these two cases, but these cases are not indicative of how we routinely process hundreds of thousands of work issue cases each year. GAO did not select these cases from a representative sample; rather, it handpicked cases that had errors.

- 28. In your comments to the GAO Report, you state that you "would have identified the remaining 10 cases where IRS reported earnings for those beneficiaries."**

- a. Once a beneficiary starts working, how long does it take for SSA to obtain that information from IRS on this employment?**

It can take up to 18 months.

- b. Are there more current forms of data to use?**

We use the most cost effective means currently available to us. As explained in the response to Senator Levin's Question 1, we are investigating new ways to expand our data matching processes.

- c. Would the federal payroll data be more current?**

Yes.

- d. SSA states that it uses the National Directory of New Hires, which comes out quarterly, to detect overpayments for the SSI program. At the hearing, the Commissioner stated that it is not cost effective. Please provide this analysis.**

In August 2010, we provided your staff with our report on the possible SSDI data match. We are enclosing a copy of that report, which includes the cost benefit analysis (CBA). In addition, we submitted the Executive Summary for the record after the hearing.

- e. Even if using the National Directory of New Hires only saved some money, does SSA not feel that saving taxpayer funds in improper payments, maintaining the integrity of the programs, and complying with the President's directive to eliminate overpayments justify the use of this database?**

We take our stewardship responsibilities very seriously. We have limited resources to balance between handling the surging number of benefit applications, completing the additional responsibilities that Congress has given us, and increasing our program integrity work. Current law gives us no choice but to look for the most cost-effective program integrity opportunities.

We already match the NDNH against our SSI rolls because income affects the amount of monthly SSI payments. The return on investment (ROI) for the SSI match is about \$6.70 for every dollar spent. In addition, our field offices can access OCSE data online. Our field office employees can use this information as part of their evaluation of beneficiaries' work activity. We estimate that the online availability of OCSE data provides an ROI of about \$2.70 for every dollar spent.

The CBA for conducting an OCSE wage match for SSDI cases shows that we would save only \$1.40 for every dollar spent. On the other hand, CDRs and SSI redeterminations provide an ROI that is five to ten times higher than the OCSE match does. Annually, we handle millions of CDRs and redeterminations, and this year we have increased these program integrity activities. It would not be cost-effective or responsible management of taxpayer dollars, to redirect our limited resources away from conducting more CDRs and redeterminations to implement an OCSE match for SSDI.

**29. How many individuals did SSA prosecute last year for fraud on the DI and SSI programs?**

We do not have the authority to prosecute persons for criminal violations; this authority rests with the Department of Justice and with State and local prosecutors. However, our OIG does refer criminal cases to these offices for prosecution. In FY 2009, our OIG's investigations led to 555 judicial actions (sentencings or pre-trial diversions) related to DI and SSI disability cases.

**a. How were these individuals identified?**

The chart below shows the source of information leading to the investigation, along with a break out of those receiving a sentence upon prosecution or a pre-trial diversion:

| SOURCE OF INFORMATION       | JUDICIAL ACTIONS |                     |
|-----------------------------|------------------|---------------------|
|                             | SENTENCE         | PRE-TRIAL DIVERSION |
| SSA EMPLOYEES               | 279              | 53                  |
| STATE/LOCAL LAW ENFORCEMENT | 69               | 2                   |
| FEDERAL LAW ENFORCEMENT     | 44               | 1                   |
| ANONYMOUS                   | 32               | 3                   |
| PRIVATE CITIZENS            | 27               | 5                   |
| PUBLIC AGENCIES             | 19               |                     |
| U.S. ATTORNEY               | 14               |                     |
| OTHER                       | 4                |                     |
| NEWS MEDIA                  | 2                |                     |
| FOREIGN LAW ENFORCEMENT     | 1                |                     |
| <b>TOTAL</b>                | <b>491</b>       | <b>64</b>           |

b. **What consequences did these individuals suffer?**

Consequences range from criminal prosecution to participation in a pre-trial diversion program. The outcomes of criminal prosecutions vary widely, and can include:

- a period of incarceration,
- supervised or unsupervised probation,
- court-ordered restitution, penalties, and fines, or
- all of the above.

The pre-trial diversion program is an alternative to prosecution that seeks to divert certain offenders from traditional criminal justice proceedings, generally prior to indictment, into a program of supervision and services administered by the U.S. Probation Service or any other appropriate community agency providing such services.

During FY 2009, in addition to the reported judicial actions, there were approximately:

- \$824,729 in Judgments<sup>1</sup>
- \$332,084 in Settlements<sup>2</sup>
- \$17,341,474 in Restitution<sup>3</sup>
- \$13,268,622 in Recoveries<sup>4</sup>
- \$1,988,081 in Fines<sup>5</sup>

<sup>1</sup> **Judgment:** A judicially ordered payment resulting from a civil action, either through a Department of Justice civil proceeding or the Office of Counsel to the Inspector General's Civil Monetary Penalty Program, which can be characterized as either program or non-program related.

<sup>2</sup> **Settlement:** An agreement or resolution reached between the Government and the defendant as part of a civil action. The purpose of a settlement is to avoid trial and end the legal dispute between the Government and the defendant.

<sup>3</sup> **Restitution:** A court-ordered repayment resulting from Pre-Trial Diversions and convictions. Funds received in restitution can be categorized as program or non-program amounts.

<sup>4</sup> **Recovery:** A *non-court ordered repayment* of funds to which an individual was not entitled, or a seizure and return of funds to which an individual was not entitled. Funds received through recovery can be categorized as program or non-program related.

<sup>5</sup> **Fine:** A court-ordered penalty, including any special assessment fees, imposed upon conviction in a criminal case or judgment in a civil case and requiring that a specified sum of money be paid to the court.

**30. Does SSA believe that a medical CDR mailer where a beneficiary is asked if they are "better, same, or worse" is an effective means of policing the disability programs? If yes, why? Please explain.**

See the answer to Question 20c above.

**31. At the hearing, Mr. Astrue stated that disability recipients reporting they have returned to work "[i]s complicated. So, particularly...some of these claimants have mental disabilities and some of them are not well educated." How can SSA rely on these same people to make a medical determination regarding their disability through a medical CDR mailer? Please explain.**

**a. What qualifies a disabled beneficiary to make a medical determination that their health has improved?**

Beneficiaries do not make a medical determination about the status of their disabling conditions. As we discussed in our meeting with your staff on July 12, 2010, we use full medical CDRs to determine medical improvement under the statutorily defined Medical Improvement Review Standard. Please see the answer to Question 20c regarding the purpose of the mailers.

**b. Do the medical CDR mailers require that the beneficiary provide medical documentation describing their health when returning the mailer? Why or why not? If so, please list the documentation that SSA will accept in support of a beneficiary's claimed continued disability.**

The CDR mailer does not require beneficiaries to provide medical documentation because it is not the process we use to make a medical determination.

**32. SSA appears to be performing more medical CDR through mailers. For example, in 2009 of the 1.1 million medical CDRs that SSA performed, 785,000 were mailers. SSA also states that, on average, a full medical CDR and consultative exam costs \$1,000 and the mailer only costs \$30 to process.**

**a. Wouldn't full medical CDRs be more effective in removing healthy individuals from the disability rolls?**

Congress has not given us sufficient funds to perform all of the full medical CDRs that we would like, but we are moving in the right direction. The CDR models and mailer process allow us to efficiently use the full medical review process in the cases where beneficiaries are most likely to improve. The full medical CDR is our only process to remove beneficiaries from the disability rolls for medical improvement.

Prior to 1993, when we implemented the predictive models and mailer process, the program savings for CDRs were about \$3 for every \$1 spent to complete the CDRs. While it was a reasonable rate of return, we completed full medical CDRs for many disabled beneficiaries whose medical conditions were unlikely to improve. After we implemented the models and the mailers, we have increased our ROI to over \$10 for every dollar spent completing CDRs.

We use large integrity samples to monitor the mailer deferral process. The samples, over 50,000 cases each year, incorporate outcomes for full medical reviews conducted on cases that our predictive models identified as CDR mailers.

CDR mailers are deferrals of a medical review (i.e., no medical review is necessary at this time), upon which we take no administrative action.

- b. **According to SSA, the average monthly DI benefit payment to a disabled worker is \$1,064. Would the lifetime benefit savings associated with removing a healthy individual from the rolls outweigh the \$1,000 cost associated with a full medical CDR? Please explain.**

Yes. We receive about a 10 to 1 return for the taxpayers for every full medical CDR we perform.

- c. **The CDR mailer essentially asks a person to self-report medical improvement. SSA has acknowledged that individuals on disability rarely self-report medical improvement or a return to work. Why is SSA increasingly reliant on self-reporting when SSA knows that it is ineffective?**

We are not screening more beneficiaries from full medical CDRs via the CDR mailer process than we have in the past. Please see the answers to Questions 20c, 31, and 32a above for more detail. As we say above, it is not correct to say that beneficiaries rarely self-report, and we do not rely solely on self-reporting.

- d. **SSA states that 80 to 85 percent of individuals truthfully complete and return these mailers. Please provide the study results and any other data supporting this conclusion.**

We reported at our July 12, 2010 meeting with your staff that approximately 80 percent to 85 percent of beneficiaries who receive a mailer respond to the first mailer request. CDR mailer studies indicate that beneficiaries who had medically improved tended not to respond rather than to provide false information. We send a second request and, if the beneficiary does not respond, we designate the case for a full medical CDR.

Although our large model integrity samples indicate that our mailer process is performing as expected, we have no way of directly measuring what percent of responses are truthful, and we did not say that we did.

33. **SSA has the authority to charge interest and impose penalties on individuals that receive overpayments.**

- a. **Why did SSA choose not to charge interest or impose penalties in its agreements with the individuals listed in this report?**

Our strategy for improving debt collection has been to focus on the techniques that provide direct collections that we can easily integrate into our existing systems. In keeping with this strategy, we have implemented several of the debt collection tools that the Debt Collection Improvement Act authorized us to use. We began with the implementation of TRO in 1992. Since then, we have expanded our debt collection

program by implementing Credit Bureau Reporting, Administrative Offset, Administrative Wage Garnishment, and FSO.

While we do not currently charge interest or impose penalties on overpayments, we are exploring the feasibility of implementing this action and, if feasible, how best to do so.

**b. Even when the individuals committed fraud?**

If we implement our process to charge interest or impose penalties, we will adhere to those guidelines on all debts, including those arising from fraud.

**c. When does the SSA deem it appropriate to charge interest or impose penalties?**

The law states that interest accrues on debts from the date on which we mail the original overpayment notice; it authorizes us to waive that interest if we fully recover the debt within 30 days; it allows us to assess a penalty of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due. If we implement our process to charge interest or impose penalties, we will adhere to those guidelines on all debts.

**34. Does SSA admit individuals back on the rolls that were previously determined to be defrauding SSA?**

Current law does not allow us to refuse to pay benefits to an otherwise eligible person due to a prior conviction of defrauding Social Security programs. However, current law does prohibit a person who has been convicted of defrauding the Social Security program from becoming a representative payee for a Social Security beneficiary.

If we determine that a person withheld information or gave false information, we have authority to withhold Social Security or SSI benefits for 6 months in the case of the first offense, 12 months for a second offense, and 24 months for any subsequent offenses. In addition, we have the authority to impose civil monetary penalties and assessments in lieu of damages against persons who make false statements or representations for use in determining the right to, or amount of, Social Security or SSI benefits.

**35. The GAO Report states that SSA officials stated that all working beneficiaries covered by Extended Period of Eligibility (EPE) were entitled to receive a \$250 stimulus check. However, the Recovery Act states that these stimulus payments were to be provided to individual who are entitled to DI benefit payments or are eligible for SSI cash benefits. By definition, a beneficiary in EPE is not entitled or eligible for cash benefits because they are working above Substantial Gainful Activity (SGA).**

- a. **Please explain why SSA paid roughly \$10.5 million in stimulus payments to approximately 42,000 individuals who were in the Extended Period of Eligibility (EPE) and no longer entitled or eligible for benefit payments?**

Under the Social Security Act, beneficiaries remain “entitled” to benefits until they complete their EPE. Accordingly, any beneficiary who was in an EPE during the 3-month eligibility window for Economic Recovery Payments (ERP) was “entitled to a benefit payment” for purposes of the ARRA.

- b. **Did SSA attempt to separate beneficiaries currently receiving disability payments from those in Extended Period of Eligibility (EPE)?**

No, the ARRA language did not specifically address persons in an EPE, but as noted above, such persons are “entitled to a benefit payment” for purposes of ARRA.

- c. **In your responsive comments to the GAO Report, SSA states that it consulted the Office of General Counsel with regard to distributing stimulus checks. What did they advise?**

We sought the advice of the Office of the General Counsel consistently throughout the development and implementation of policy and procedures for making ERPs, including but not limited to the process of selecting particular classes of persons to certify, or not certify, for ERP eligibility. In addition, personnel from the Office of the General Counsel participated in meetings involving the identification and selection of ERP-eligible individuals.

- d. **What process did SSA employ to distribute the stimulus checks?**

Pursuant to section 2201(a)(1)(A) of the ARRA, the Department of Treasury was responsible for disbursing the payments. Section 2201(b) required us (as well as the Railroad Retirement Board and the Department of Veterans Affairs) to “certify the individuals entitled to receive payment under this section and provide the Secretary of the Treasury with the information needed to disburse such payments.”

36. **For the states listed below, please provide 2009 data by county for: (1) the percentage by diagnostic group of the individuals in DI, SSI, and both of the disability programs; and (2) the number of individuals by diagnostic group in DI, SSI, and both of the disability programs. Please use the same diagnostic groups found in SSA's Annual Statistical Report on the Social Security Disability Insurance Program, 2009, Table 68.**

- a. **Alabama;**
- b. **Kentucky;**
- c. **Mississippi;**
- d. **Virginia; and**
- e. **West Virginia**

**NOTE of the Permanent Subcommittee on Investigations:**

The five Excel workbooks mentioned in this response will be SEALED and retained in the files of the Subcommittee.

Enclosed are five Excel workbooks. There is one workbook for each State, with each workbook containing individual worksheets for each county (and, in the case of Virginia, each independent city) in that State. The tables include counts and percentages of beneficiaries aged 18-64 receiving Social Security disability benefits only, SSI disability payments only, and those receiving both Social Security and SSI disability benefits. The Social Security categories are further broken down into those receiving disability benefits as workers, widow(er)s, and adult children.

Because the congressional exception found in (b)(9) of the Privacy Act applies, we have the authority to release this information, which consists of data related to a small number of recipients by county. To protect the privacy of our beneficiaries, we respectfully request that this information not be released to the public. Please suppress any data with fewer than 10 beneficiaries in total because such a small number in a county could, if combined with other publically available information, potentially lead to a beneficiary being identified.

**37. Please explain SSA's use of "predictive modeling" in the disability programs and provide any models currently used in those programs.**

We use predictive modeling in the disability programs to better serve the public and to perform our program integrity work more efficiently.

Predictive Models to Improve Service to Claimants with Severe Health Conditions

We have developed predictive models designed to improve service to persons with severe disabilities who clearly meet our disability standards. These predictive models include the Quick Disability Determination (QDD) process, the Compassionate Allowance (CAL) process, the Presumptive Disability (PD) process, and the terminal illness (TERI) process.

The goal of the QDD process is to make faster disability decisions for claimants:

- who have medical conditions that reflect a high probability of meeting our disability standards; and
- whose medical evidence is easily and quickly verifiable.

We use an automated screening tool that captures data from the electronic disability application to identify potential cases for the QDD process. For cases identified through QDD, we attach an indicator to the record alerting the adjudicator that the case needs to be fast-tracked.

The CAL process identifies claimants with diseases and other medical conditions that invariably qualify under the Listing of Impairments based on minimal objective medical information. The PD process allows certain initial SSI disability claimants to receive payments in advance of formal medical determination by the DDS if they meet specified medical criteria. DDSs and field offices authorized to make PD determinations for special impairment categories can make PD determinations in any case with high probability of allowance. Claimants may receive up to 6 months of payments based on PD prior to a formal DDS determination.



The TERI process expedites claims that have an indication of terminal illness. Field office or DDS staff may identify TERI cases. CAL, QDD, and PD cases involve high probability of allowance, but do not necessarily meet the terminal illness criteria.

Predictive Models to Perform our Program Integrity Workload

We use predictive modeling in a number of business processes to prioritize workloads to help ensure we use the most productive and cost effective reviews. Our current predictive models include:

- SSI Redetermination Scoring Model: Prioritizes cases for SSI redetermination based on the expected value of detected overpayments found through a redetermination;
- Medical CDR Scoring Model: Determines the most cost-effective type of CDR (full medical review or CDR mailer) and prioritizes medical CDRs based on the likelihood of medical improvement;
- Medical Diary Scoring Model: Determines the optimal time to conduct medical CDRs based on the likely timing of medical improvement;
- Pre-Effectuation Review Model: Determines the most cost-effective 50 percent of mandated PER reviews based on the expected likelihood of an erroneous DDS disability allowance;
- SSR/IRS and OCSE Wage Models: Identifies those cases likelihood to yield the highest ROI through Limited Issue SSI Redeterminations; and
- Medicare Part D Subsidy Model: Identifies those cases most likely to have an incorrect Medicare Part D subsidy. CMS and we use this model to initiate Part D Subsidy redeterminations.

Enclosures

## **Cost Benefit Analysis for a Pilot Computer Match between the Office of Child Support Enforcement (OCSE) Quarterly Wage File and the Disability Insurance (DI) Master Beneficiary Record (MBR)**

### **Match Objective**

To determine the cost-effectiveness of a batch matching operation between the Disability Insurance MBR and the OCSE Quarterly Wage file.

### **Background**

SSA has been using quarterly wage data from the OCSE National Directory of New Hires data base in a batch matching operation with the Supplemental Security Record (SSR) for several years. However, the Agency has not tested the use of OCSE wage data for Title II DI program integrity. A match between the OCSE quarterly wage file and the SSA MBR would alert SSA to a beneficiary's work activity many months (over nine months in some cases) before the annual Continuing Disability Review Enforcement Operation (CDREO) alerts are generated. This could result in more timely investigations of work activity, Substantial Gainful Activity (SGA) disability cessation determinations and reduction of overpayments. A pilot match could help SSA determine if an ongoing automated match between the OCSE quarterly wage file and the SSA MBR should be implemented.

### **Sample Selection**

OQP obtained a random sample of 43,935 of the approximately 8.9 million Title II beneficiaries who were entitled to a disability insurance benefit (DIB) in calendar year 2007. This sample was matched to the OCSE quarterly wage file using the following matching criteria:

- The earnings for at least 1 quarter in 2007 were over the SGA level (\$2,700 or \$4,500 if the beneficiary was blind).
- The date of entitlement to disability (DOED) was prior to 01/01/2007.

This resulted in the identification of 3,052 accounts. A random sample of 680 cases was selected from this sample.

### **Review Methodology**

OQP staff set up an hypothetical alert date of 6 months after the end of each quarter for each of the study sample cases. This is the same timeframe used to generate alerts from the OCSE quarterly wage matching operation with the SSR. The first quarter alerts would have been generated on October 1, 2007. The alerts for the later quarters would have been generated on January 1, 2008, April 1, 2008, and July 1, 2008.

From the 680 case study sample, OQP staff screened out cases that belonged to the following categories:

- A DIB cessation input prior to the hypothetical alert date,
- Under field office investigation at the time of the hypothetical alert,
- Full retirement age reached before hypothetical alert,

- Died before the hypothetical alert date, and
- Awarded a closed period of DIB after date of the hypothetical alert.

OQP then examined the remaining 326 alerts from the study sample. Information on the MBR, DCF, Payment History Update System (PHUS), Summary Earnings Query (SEQY) and Detail Earnings Query (DEQY) and eWork development was used to perform the study. The 326 alerts were then separated into three categories:

- Cases that had a CDREO alert generated for 2007,
- Cases that did not have a 2007 CDREO but had 2007 MEF earnings, and
- Cases that did not have a 2007 CDREO and did not have 2007 MEF earnings.

### Cases with a CDREO Alert for 2007

There were 59 cases with a CDREO alert for 2007 wages. For these cases, the decision was examined and the amounts of the actual overpayment were recorded. Any overpayment that occurred before the potential alert date was counted as an overpayment that would have been discovered earlier by the alert generated from the OCSE/MBR match. Any overpayment amount that occurred after the hypothetical alert date was counted as an overpayment that would have been prevented.

The 59 sample cases project to about 54,000 beneficiaries annually. About 36 percent of the beneficiaries had overpayments that occurred before the hypothetical alert date. The average retroactive overpayment amount was \$1,817 for these 54,000 beneficiaries. This projects to a total of \$98 million in retroactive overpayments that would be detected. Assuming that 85 percent of these retroactive overpayments are recovered, retroactive overpayment benefits would be about \$83 million.

In addition to retroactive overpayments, about 39 percent of the beneficiaries had overpayments that occurred after the hypothetical OCSE alert date. The OCSE alert would have prevented these overpayments from occurring. The average overpayment prevention amount was about \$2,156, which projects to about \$116 million in overpayment preventions for these 54,000 beneficiaries.

The alerts that result from the current CDREO process are worked by the PSCs, ODO, or the field offices. Based on the 2007 distribution of the CDREO among the three components, we estimate that the 54,000 OCSE alerts would be distributed as follows:

|               |        |
|---------------|--------|
| PSCs          | 25,000 |
| ODO           | 27,000 |
| Field Offices | 1,700  |

Using the unit times, salaries, and overhead costs for the three components, we estimate that OCSE alert development costs would be about \$6.2 million. In addition to development costs, the approximately 19,000 cases with retroactive overpayments would incur overpayment recovery costs of about \$145 per case, or about \$2.8 million. Adding in Systems costs and OCSE reimbursement, the total cost for the 54,000 alerts would be about \$9 million. This compares to retroactive and recurring benefits of \$199 million, for a benefit cost ratio of 22 to 1

for the OCSE alerts that were also CDREO alerts. See Appendix 1 for more detailed information about overall benefits and costs for this category of alerts.

Most of the savings from the 54,000 OCSE alerts would be recovered by the current CDREO alert process. For example, the \$83 million in recovered retroactive overpayments would also be recovered when the CDREO alerts are worked at a later date. If the overpayment preventions of \$116 million were not worked until after they became retroactive overpayments at the time of the CDREO alert, 85 percent would be recovered. Therefore, the only additional savings from the 54,000 alerts in this category would be 15 percent of \$116 million, or about \$17 million. Appendix 2 has more details about the benefit computations for the additional OCSE alerts.

### Cases with No CDREO Alert and MEF Earnings for 2007

There were 77 cases in which the beneficiary had MEF earnings posted for 2007 but no CDREO alert was produced. These 77 cases project to about 70,000 beneficiaries. Possible overpayment amounts were estimated on these cases where a work CDR had not been completed. All posted earnings from 2002 through 2008 were considered. The actual CDR determinations were used for any of those earnings that had been previously investigated by SSA in determining any trial work period (TWP) months and SGA decisions. TWP months and SGA determinations were estimated for periods of work that had not been developed. The estimated TWP and SGA suspension months were determined by dividing the yearly earnings by the TWP month or SGA amounts for that year. The estimates given in these cases show the maximum possible overpayments. It was not possible to obtain actual amounts on these cases without developing them by contacting beneficiaries and employers.

The maximum possible recovered retroactive overpayment amount for these cases was about \$1.5 million. The maximum overpayment prevention amount was about \$4.4 million. Therefore, the maximum total overpayment benefit would be about \$5.9 million. Since none of these cases would be alerted under the current CDREO process, this benefit amount would all be in addition to current benefits.

The cost to work the additional 70,000 alerts in this category would be about \$8.9 million. Therefore, the maximum benefit cost ratio for these cases would only be about .7 to 1, or 70 cents in benefits for every dollar spent.

### Cases with No CDREO Alert and No MEF Earnings for 2007

There were 190 sample cases that would have been alerted by the OCSE process but were not alerted in the CDREO process and had no MEF earnings for 2007. These sample cases project to about 173,000 beneficiaries. We believe the majority of these cases involve incorrect SSNs on the OCSE data base.

None of these cases would produce overpayments. Since none of these cases would involve SGA determinations, there would be no field office costs. The PSC/ODO unit times should be less than the other two categories of OCSE alerts. We believe a unit time of 30 minutes, or about half that of the unit times for the other two categories, would be reasonable for these alerts. This assumption produces a cost of about \$8.3 million to work this category of OCSE alert.

## Overall Benefit Cost Ratio

At the time that a DIB/ OCSE quarterly wage alert could be produced, it would not be possible to determine which of the three categories an alert fell into. This is because the MEF earnings would not yet be posted. Therefore, all three categories of alerts would need to be worked if a quarterly DIB/OCSE wage match were implemented.

About \$205 million in retroactive overpayment recoveries and recurring payment preventions would accrue from working all 297,000 alerts that would result from this match. Total costs to work all of these alerts would be about \$26 million. Thus, the overall benefit cost ratio would be 7.8 to 1.

### ***Benefits and Costs in Addition to CDREO Alert Process***

The overall benefit cost ratio can be misleading because many of the OCSE benefits would be captured by the current CDREO alert process. For example, the only OCSE benefits that would not be captured from the CDREO alerted cases would be 15 percent of the recurring overpayment preventions, or about \$17 million. The savings of \$6 million from those cases with MEF earnings, but no CDREO alert, would also be savings that are not captured under the current CDREO process. Therefore, the additional savings attributable to the DIB/OCSE alerts would be about \$23 million.

Additional costs would accrue from all the cases that are not CDREO alerted. This would be an additional 243,000 alerts annually. These additional alerts would cost about \$17 million. Therefore, the benefit cost ratio for the additional alerts generated by the OCSE matching operation would be about 1.4 to 1.

### ***Sampling Variability for Additional Benefits and Costs***

The sample size for this pilot match evaluation was only 326 cases. Large sampling error can be associated with small samples. This could mean that the benefit cost ratio for this match, if implemented, might be much different than the benefit cost estimate from our sample.

We estimated the sampling error on the benefit cost ratio of 1.4 to 1 for the additional benefits and costs. We found that a 95 percent confidence interval around the 1.4 to 1 estimate would range from .2 to 1 to 2.5 to 1. In other words, there is a 95 percent chance that the actual benefit cost ratio for this match, if implemented, would be between .2 to 1 and 2.5 to 1. There is only a 2.5 percent chance that the actual ratio would be greater than 2.5 to 1 and a 2.5 percent chance that the actual ratio would be less than .2 to 1.

## Conclusions

- A match between the MBR disabled beneficiaries and OCSE's quarterly wage data would yield an estimated \$23 million in overpayment preventions and recoveries on an annual basis that would not be captured by the current work CDR Enforcement Operation.
- The estimated cost to work the additional 243,000 alerts resulting from a match with OCSE quarterly wage data would cost about \$17 million.
- The estimated return on investment would be about \$1.40 for every dollar spent on working the additional alerts.

### **Recommendation**

OQP does not recommend implementation of a match between OCSE's quarterly wage files and the DI MBR since a large number of additional alerts would be generated and the expected return on investment would be low.

## Appendix 1

## Overall Benefits and Costs

|  | CDREO Alert          | No CDREO Alert     |                 | Total                |
|--|----------------------|--------------------|-----------------|----------------------|
|  |                      | MEF Earnings       | No MEF Earnings |                      |
| <b>Benefits</b>  |                      |                    |                 |                      |
| Sample Cases   | 59                   | 77                 | 190             | 326                  |
| Projected Beneficiaries  | 53,740               | 70,135             | 173,061         | 296,936              |
| <b>Percentage of Beneficiaries with Retroactive Overpayments</b> | 35.6%                | 7.8%               | 0.0%            | 8.3%                 |
| Beneficiaries With Retroactive Overpayments                      | 19,128               | 5,465              | 0               | 24,593               |
| Average Retroactive Overpayment Amount                           | \$1,817              | \$332              | \$0             | \$2,150              |
| Retroactive Overpayment Amount                                   | \$97,664,886         | \$1,815,172        | \$0             | \$99,480,058         |
| Recovered Retroactive Amount (85%)                               | \$83,015,153         | \$1,542,897        | \$0             | \$84,558,049         |
| <b>Percentage of Beneficiaries With Overpayment Preventions</b>  | 39.0%                | 7.8%               | 0.0%            | 8.9%                 |
| Beneficiaries With Overpayment Preventions                       | 20,949               | 5,465              | 0               | 26,415               |
| Average Overpayment Prevention Amount                            | \$2,156              | \$800              | \$0             | \$2,956              |
| Total Overpayment Prevention Amount                              | \$115,873,065        | \$4,372,995        | \$0             | \$120,246,060        |
| <b>Total Overpayment Benefits</b>                                | <b>\$198,888,218</b> | <b>\$5,915,892</b> | <b>\$0</b>      | <b>\$204,804,109</b> |

Cost Benefit Analysis for a Pilot Computer Match between the Office of Child Support Enforcement (OCSE) Quarterly Wage File and the Disability Insurance (DI) Master Beneficiary Record (MBR)

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## Overall Benefits and Costs

|   | CDREO Alert        | No CDREO Alert     |                    | Total               |
|---|--------------------|--------------------|--------------------|---------------------|
|   |                    | MEF Earnings       | No MEF Earnings    |                     |
| <b>Costs</b>                            |                    |                    |                    |                     |
| <b>PSC Processed Alerts<sup>1</sup></b> | 24,599             | 32,104             | 79,218             | 135,922             |
| PSC Unit Time <sup>2</sup>              | 63                 | 63                 | 30                 |                     |
| PSC Overhead <sup>3</sup>               | 2.31               | 2.31               | 2.31               |                     |
| PSC Workyears                           | 53.6               | 87.4               | 107.6              |                     |
| PSC Salary <sup>4</sup>                 | \$84,566           | \$84,566           | \$84,566           |                     |
| PSC Development Cost                    | \$2,406,545        | \$3,165,895        | \$3,719,975        | \$9,292,415         |
| <b>ODO Processed Alerts<sup>1</sup></b> | 27,453             | 35,830             | 88,411             | 151,694             |
| ODO Unit Time <sup>2</sup>              | 68                 | 68                 | 30                 |                     |
| ODO Overhead <sup>3</sup>               | 2.53               | 2.53               | 2.53               |                     |
| ODO Workyears                           | 71.2               | 115.3              | 131.5              |                     |
| ODO Salary <sup>4</sup>                 | \$84,566           | \$84,566           | \$84,566           |                     |
| ODO Development Cost                    | \$3,200,384        | \$4,176,895        | \$4,547,040        | \$11,924,319        |
| <b>FO Processed Alerts<sup>1</sup></b>  | 1,688              | 2,204              | 0                  | 3,891               |
| FO Unit Time <sup>2</sup>               | 243                | 243                |                    |                     |
| FO Overhead <sup>3</sup>                | 1.96               | 1.96               |                    |                     |
| FO Workyears                            | 12.1               | 19.6               |                    |                     |
| FO Salary <sup>4</sup>                  | \$84,566           | \$84,566           |                    |                     |
| FO Development Cost                     | \$543,776          | \$709,986          |                    | \$1,253,762         |
| <b>Systems Cost</b>                     | \$5,029            | \$6,564            | \$16,196           | \$27,789            |
| OCSE Reimbursement                      | \$13,532           | \$17,661           | \$43,578           | \$74,771            |
| OP Development/Recovery Cost            | \$2,781,563        | \$794,732          | \$0                | 3,576,295           |
| <b>Total Costs</b>                      | <b>\$8,950,829</b> | <b>\$8,871,733</b> | <b>\$8,326,790</b> | <b>\$26,149,351</b> |
| <b>B/C Ratio</b>                        | <b>22.2</b>        | <b>0.7</b>         | <b>0.0</b>         | <b>7.8</b>          |

<sup>1</sup> Proportion of alerts processed by the three components furnished by OS

<sup>2</sup> Unit times provided by OPSOS

<sup>3</sup> Overhead factors provided by OB

<sup>4</sup> Salary based on GS11/9 from FY 2008 General Schedule plus cumulative locality pay of 15.55 and 20 percent benefits



Appendix 2

Benefits and Costs in Addition to CDREO

|   | CDREO Alert         | No CDREO Alert     |                    | Total               |
|---|---------------------|--------------------|--------------------|---------------------|
|   |                     | MEF Earnings       | No MEF Earnings    |                     |
| Projected Additional OCSE Alerts <sup>5</sup> | 0                   | 70,135             | 173,061            | 243,196             |
| <b>Total Overpayment Benefits<sup>6</sup></b> | <b>\$17,380,960</b> | <b>\$5,915,892</b> | <b>0</b>           | <b>\$23,296,851</b> |
| PSC/ODIO/FO Development Cost                  | \$0                 | \$8,052,776        | \$8,267,015        | \$16,319,791        |
| Systems Cost                                  | \$0                 | \$6,564            | \$16,196           | \$22,760            |
| OCSE Reimbursement                            | \$0                 | \$17,661           | \$43,578           | \$61,239            |
| OP Development/Recovery Cost                  | \$0                 | \$794,732          | \$0                | \$794,732           |
| <b>Total Costs</b>                            | <b>\$0</b>          | <b>\$8,871,733</b> | <b>\$8,326,790</b> | <b>\$17,198,522</b> |
| <b>B/C Ratio</b>                              |                     | <b>0.7</b>         | <b>0.0</b>         | <b>1.4</b>          |

<sup>5</sup> Additional quarterly OCSE alerts for CDREO alerted cases plus OCSE alerts with no CDREO alert

<sup>6</sup> 15 percent of preventions from CDREO alerted cases plus all benefits from cases with no CDREO alert

